Payday Loan

May 12, 2015

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***Re:* Advice and Recommendations of Daniel C. Gwaltney**
**Regarding Potential Rulemakings for Payday, Vehicle Title and Similar Loans**

Ladies and Gentlemen:

## I. Preliminary Statement.

This letter sets forth my written advice and recommendations in response to the CFPB's March 26, 2015 Outline of Proposals under Consideration and Alternatives Considered (the "Outline") in connection with the Small Business Advisory Review ("SBAR") Panel for Potential Rulemakings for Payday, Vehicle Title and Similar loans.

I am an identified individual representative of an affected small entity ("SER"), within the meaning of Section 609(b)(2) of the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. § 609(b)(2).These comments confirm and expand on my oral remarks at the SBAR Panel's meeting on April 29, 2015.

To date, in neither the Outline nor in its other public statements regarding payday credit has the CFPB set forth a data-based foundation for its assertions of harm arising from payday reborrowing — the purported harm that is the centerpiece of its Outline. To the con-

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trary, existing scientific research shows that payday loans on balance do not harm consumers and that reborrowing is generally welfare-enhancing. The CFPB has not studied the impacts of its proposed rulemaking on small business and has not even sought to collect any small-business data from which to undertake such studies.

For the reasons set forth below, I request that the proposed rulemaking be withdrawn, that the Outline be modified and that the SBAR Panel be reconvened to consider a revised set of proposals that takes into account actual welfare outcomes of consumers based on scientifically observed data about them, and also based on full data about small-business lenders and their borrowers.

## II. Background of Commenter.

I am the Chief Financial Officer of Payday Loan, LLC ("PDLL"), a small business concern (within the meaning of Section 3 of the Small Business Act, 15 U.S.C. § 632). PDLL's headquarters are located in Anaheim, California; it has 25 stores in Southern California, where it offers payday and automobile title loans. PDLL has 93 employees and supports an annual payroll and related benefits of $2,750,000.

PDLL is licensed by the California Department of Business Oversight and complies with applicable state and federal laws.

PDLL believes that its historical success is attributable in no small measure to its genuine concern for the welfare of its customers and its willingness and ability to provide those customers with ethical credit that satisfies the customers' needs. In addition, PDLL is a member of California Financial Service Providers and subscribes to its Best Practices.

## III. The CFPB Has Not Demonstrated a Principled Consumer-Protection Need for the Proposed Rule.

### A. Introduction.

The CFPB's proposal addresses what the CFPB calls "unaffordable debt." The particular purported mischief that the proposal aims to remedy is "loans with payments that are often beyond a consumer's ability to repay, forcing the consumer to choose between default and repeated reborrowing." Outline at p. 3. Such loans, the CFPB posits, "are causing substantial harm to consumers." Id.

As I point out in this letter, the CFPB has evidence neither for the fundamental premise of its proposal —"forced" reborrowing — nor for the "substantial harm" about which the CFPB claims to be concerned.

The CFPB's own research indicates that a substantial majority of borrowers have loan sequences of fewer than three loans (see fn. 2 below); but instead of regulating outlier longer-term sequences, the proposed rule inexplicably forbids all unreduced-principal reborrowing, except under the commercially ridiculous circumstances where no interest is charged for a period longer than the interest-bearing term of the loan.

**B. Payday Loans.**

In these comments, I address primarily traditional single-payment payday loans. Nevertheless, aspects of these comments are equally applicable to other forms of Covered Loans (as defined in the Outline). Our company is primarily in the conventional payday-loan business and does not have extensive operating experience with longer-term credit options.

A payday loan is a short-term advance repayable on the borrower's next payday.[1] At the time of the initial loan, the borrower generally signs a note and authorizes the lender to deduct the principal of, and interest on, the loan from the borrower's checking account on the maturity date, either electronically or by postdated check. The borrower has the option to remit payment in full on the maturity date in cash, or the lender may process the borrower's preauthorized payment item. If, as the maturity date approaches, the borrower wishes to extend the due date of the loan, the laws of some states allow the borrower to effectuate a limited number of reborrowings, or loan maturity extensions, by paying the accrued interest in cash and entering into a new due-on-next-payday loan. Payday loan interest is never compounded or added to principal.

The payday-lending industry's product has historically been a single-payment loan due on the borrower's next payday (generally, about two weeks, since most borrowers are paid biweekly or semimonthly). The origin of this single-payment, single-pay-period nominal loan duration is the product of political processes at the state level and may not reflect every borrower's preferred structure.

Thus, and very importantly, this two-week average term reflects the borrowing-duration expectations of certain, but not all, borrowers. Accordingly, for example, a borrower whose demand for credit is for a duration of six or eight weeks must generally plan and contract for three or four successive two-week payday loans. This result is brought about because the state law of the borrower's state renders loans with a term of longer than two weeks illegal, impracticable or insufficiently remunerative.

Both lenders and the industry's detractors recognize that some consumers will not have fully recovered from the financial shock that required them to seek a payday loan in a mere two weeks. It is thus lenders' experience that these consumers frequently want, need and seek credit they can structure for durations ultimately longer than two weeks. Consumers do this because they understand that the ability to continue using credit can be a very borrower-friendly feature of this form of credit: within certain limits, the borrower alone has the power to determine for how long her credit will be outstanding. Few other forms of consumer credit provide so much duration-determination power to the consumer.

Existing law and custom provide substantial safeguards for consumers who are unable to repay their loans at their desired ultimate maturity date. Even where not required under

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[1]These are the "single-payment payday loans with one lump-sum payment typically due within a few weeks . . . ." Outline at p. 3.

state law, for example, members of Community Financial Services Association of America, Ltd. ("CFSA") provide their borrowers with an interest-free extended repayment plan at any time on request.

**C. The CFPB's Research.**

Against this background, the CFPB has studied patterns of payday-loan usage by consumers.[2] In relevant part, the CFPB's research acknowledges that a substantial majority of borrowers (greater than 60 percent) have loan "sequences" of fewer than three loans, even if breaks of up to 14 days between loans are ignored. Thus, to the extent there is any "unaffordable" debt at all, such borrowers are in a minority. And indeed, a small percentage of borrowers — approximately 15 percent — have "sequences" of ten loans or more. But the CFPB research does not explicate whether these longer "sequences" are the result of informed and voluntary consumer choice or "forced reborrowing." It does not appear that the CFPB sought to gather such information from consumers.

As discussed at greater length below, the CFPB itself has not disclosed any research regarding whether protracted borrowing is the cause-in-fact of any of the categories of harm it lists, what the economic magnitude of that harm might be, and whether there are countervailing benefits to consumers or to competition. The CFPB has not explained why any such harm is not avoidable through enhanced disclosures or other behavioral interventions. I believe that the CFPB has simply chosen not to study these issues (or indeed any other issues relating to the welfare consequences of protracted borrowing).

Rather, the CFPB "puts the rabbit in the hat" by simply positing harm, that the harm is substantial, that the harm is unavoidable by consumers, and that there are no countervailing benefits.[3] Existing third-party research of academic quality sharply contradicts these postulates.

**D. Third-Party Research.**

1. Consumer Welfare Outcomes Generally.

Since the early 2000s, numerous investigators have looked beyond mere frequency and patterns of use of payday loans to consider the actual welfare outcomes that consumers achieve from the use of such credit.[4] All of these studies use one or more proxies for welfare, and many of the studies exploit natural experiments occasioned by changes in state law.

[2] Most recently, and reliably, in Burke, K. et al. (2014), "CFPB Data Point: Payday Lending," available at http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf (last visited May 12, 2015).

[3] 12 U.S.C. § 5531(c)(1).

[4] See generally, Shapiro, R. (2011) "The Consumer and Social Welfare Benefits and Costs of Payday Loans: A Review of the Evidence," available at http://www.sonecon.com/docs/studies/Report-Payday-Loans-Shapiro-Sonecon.pdf (collecting studies; last visited May 12, 2015). A copy of this paper is annexed as Exhibit A.

Taken together, the studies paint a picture that is far from the unambiguous depiction of harm asserted by the CFPB. Examples include:

- Access to payday loans is associated with reduced rates of foreclosure and larceny after natural disasters.[5]
- After state-law payday-loan bans, consumers experience increased numbers of bounced checks and harassment by debt collectors.[6]
- Consumers report less difficulty paying bills before state payday-loan bans, and bans cause them to shift into inferior substitute credit products.[7]
- Delinquencies on revolving, retail and installment credit increase in states that have restricted former easy availability of payday loans.[8]

A more direct measurement of actual changes in consumer financial well-being, before and after payday-loan usage, is facilitated by using credit scores. This methodology, applied by Neil Bhutta, an economist at the Federal Reserve Board, demonstrates that access to payday loans has no adverse effect on consumers' credit scores, new delinquencies or likelihood of exceeding limits on other revolving credit accounts.[9] The same investigator and others show in a subsequent study that "the effects of payday borrowing on credit scores and other measures of financial well-being are close to zero"[10] (emphasis added).[11]

A few studies find slight adverse effects from payday lending. One example finds a 2.5% increase in the rate of chapter 13 filings for approved payday borrowers (relative to

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[5]Morse, A. (2011) "Payday Lenders: Heroes or Villains?" Journal of Financial Economics, 102:1, pp. 28-44. A copy of this paper is annexed as Exhibit B.

[6]Morgan, D., Strain, M. and Seblani, I. (2012) "Payday Credit Access, Overdrafts, and Other Outcomes," Journal of Money, Credit, and Banking,44:2-3, pp. 519–531. A copy of this paper is annexed as Exhibit C.

[7]Zinman, J. (2009) "Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap" Journal of Banking and Finance, Vol. 34, pp. 546–556. A copy of this paper is annexed as Exhibit D.

[8]Desai, C. and Elliehausen, G. (2014) "The Effect of State Legislation Restricting Payday Lending on Consumer Credit Delinquencies: An Investigation of the Debt Trap Hypothesis," available at http://ssrn.com/abstract=2418608 (last visited May 12, 2015). A copy of this paper is annexed as Exhibit E.

[9]Bhutta, N. (2014) "Payday Loans and Consumer Financial Health," Journal of Banking and Finance, Vol. 45, pp. 230-242. A copy of this paper is annexed as Exhibit F.

[10]Bhutta, N., Skiba P. and Tobacman, J. (2015) "Payday Loan Choices and Consequences," Journal of Money, Credit and Banking, 47:2-3, pp. 223-260. A copy of this paper is annexed as Exhibit G.

[11]One of the customary purposes of ability-to-repay rules, such as those proposed in the Outline, is to protect consumers against the consequences of their own defaults. However, payday-loan defaults do not appear to have adverse economic welfare consequences to consumers, likely because they are small and unsecured, defaults are presently not reported to general credit bureaus, and collection activity is limited. See, generally, Mann, R. (2014) " Do Defaults on Payday Loans Matter?" available at http://ssrn.com/abstract=2560005 (last visited May 12, 2015).

non-approved loan applicants), anomalously without any change in chapter 7 filings.[12] (Other investigators reach a contrary result and find no impact on bankruptcy filings of any chapter.[13]) In another study based on older data from 2003, the investigators find that presence of payday lenders in a borrower's county has a small effect on involuntary bank account closures, but the effect is not as great as being a single mother, being age 65-74, or living in a county with a high incidence of new bank account inquiries.[14] The investigators do not attempt to quantify the financial cost of an involuntary bank account closure, and the work was completed prior to the widespread adoption of general purpose prepaid cards that currently substitute for deposit accounts for millions of Americans.

On balance, existing research of academic quality shows slight positive or negligible effects of payday borrowing on consumer welfare. This is so despite the protracted usage that can be imputed (see, "Data Point," fn. 2, above) to borrowers in each of the studies referred to.

2. Reborrowing — Welfare Outcomes.

Each of the studies mentioned above looks at some measure of the mean effects of payday borrowing. That is, the investigators considered the effects of payday borrowing across all borrowers, regardless of their frequency of borrowing or intensiveness of reborrowing activity. But two studies particularly consider the distribution of welfare outcomes, as related to borrowers' reborrowing behavior:

- Wilson et al.[15] used a laboratory experiment to examine the extent to which initial and continued uses of payday loans affect an individual's ability to manage and survive financial setbacks with uncertain and unforeseeable expenditures. They found that access to both initial payday credit and reborrowing lowered the subjects' risk of financial failure. However, borrowers whose use exceeded a threshold limit had materially worse outcomes. That limit was ten successive loans.

[12] Skiba, P. and Tobacman, J. (2009) "Do Payday Loans Cause Bankruptcy?" available at http://ssrn.com/abstract=1266215 (last visited May 12, 2015).

[13] Lefgren, L. and McIntyre, F. (2008) "Explaining the Puzzle of Cross-State Differences in Bankruptcy Rates," Journal of Law and Economics, Vol. 52 at p. 367.

[14] Campbell, D., Martinez-Jerez, F. and Tufano, P. (2008) "Bouncing Out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures," available at http://ssrn.com/abstract=1335873 (last visited May 12, 2015).

[15] Wilson, B., Findlay, D., Meehan, J., Wellford, C. and Schurter, K. (2010) "An Experimental Analysis of the Demand for Payday Loans," The B.E. Journal of Economic Analysis & Policy, 10:1. A copy of this paper is annexed as Exhibit H.

- Most recently, Priestley[16] used lender administrative data matched to borrower credit bureau information and found that borrowers who engage in protracted reborrowing activity have better financial outcomes (measured by changes in credit scores) than consumers whose borrowing is limited to shorter periods. She also found that consumers whose reborrowing is less restricted by regulation fare better than consumers in the most restrictive states, after controlling for initial financial condition.

These studies demonstrate that payday reborrowings are generally welfare-enhancing for consumers. It is my understanding that the CFPB has not conducted, contracted for or received the results of any research that contradicts the findings of these investigators.

3. Reborrowing — Consumer Expectations.

The CFPB's public pronouncements have used charged language, including descriptions of payday loans as "debt traps."[17] This term implies that payday loans are somehow defective or that lenders rely on deception or chicanery in order to induce unsuspecting short-term borrowers to take on what later turn out to be longer-term obligations. Yet research relating to consumers' experience with payday loans entirely discredits this theory:

- Mann[18] compares the repayment expectations of payday borrowers at the time of their initial loans to subsequent borrowing and repayment behavior. About 60 percent of borrowers accurately predict within two weeks how long it will take them finally to repay their loans. Those who were not this accurate did not systematically underestimate their repayment term. This study strongly suggests that repayment terms are closely aligned with borrower ex ante intentions, rebutting the CFPB's implicit notions of deceit or product defect. Moreover, the random distribution of errors suggests that payday borrowers do not operate under optimism bias in undertaking their loans.

- Research by Center for Financial Services Innovation indicates that a substantial majority (68 percent) of borrowers reported that it took the same or less time to repay their loans as they had expected.[19]

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[16]Priestley, J. (2014) "Payday Loan Rollovers and Consumer Welfare," available at http://ssrn.com/abstract=2534628 (last visited May 12, 2015). A copy of this paper is annexed as Exhibit I.

[17]See, e.g., CFPB Press Release, "CFPB Considers Proposal to End Payday Debt Traps," available at http://www.consumerfinance.gov/newsroom/cfpb-considers-proposal-to-end-payday-debt-traps (last visited May 12, 2015).

[18]Mann, R. (2013) "Assessing the Optimism of Payday Loan Borrowers," available at http://ssrn.com/abstract=2232954 (last visited May 12, 2015). A copy of this paper is annexed as Exhibit J.

[19]Sledge, J. and Levy, R. (2012) "A Complex Portrait - An Examination of Small-Dollar Credit Consumers," available at http://www.cfsinnovation.com/Document-Library/A-Complex-Portrait-An-Examination-of-Small-Dollar.aspx (last visited May 12, 2015), at p. 21.

- In a study[20] of consumers who borrowed from CFSA members, nearly all (94 percent) respondents reported that they understood how long it would take them to repay their loans "well" or "very well."

The CFPB does not appear to have measured customer expectations regarding loan repayment and reborrowing duration, and the findings referred to above remain unrebutted.

**E. Advocacy Reports by Pew Charitable Trusts.**

Although the CFPB has itself apparently studied only numerical patterns of borrowing, the CFPB has publicly stated that, in adopting the Outline, the CFPB relied on certain advocacy reports by The Pew Charitable Trusts.[21] In general, the Pew reports rely on qualitative or anecdotal information, or poorly sampled quantitative data, that are neither representative of current borrowing practices nor scientifically rigorous. While Pew states that their work is based on "demographic data derived from 33,576 responses," in fact Pew interviewed only 451 self-reported borrowers. Those 451 interviews include consumers who could recall having incurred payday debt at any time within the preceding five years. Their reports are thus based on stale data that require consumers to remember their transactions of five years earlier (how many readers of this letter recall their credit card dealings of 2010?). Pew attempts to analyze interstate differences in usage with an average per-state sample size of nine respondents. Further work by Pew is based on focus groups responding to "loaded" questions. None of Pew's contributions to this field can be deemed of academic quality or to constitute substantial evidence for purposes of rulemaking.

## IV. The CFPB Has Not Studied the Small-Business Impacts of its Proposal.

The CFPB has neither collected nor studied historical information regarding small-business payday lenders. It has neither transaction-level data nor financial information from which to estimate the impacts of its proposed rulemaking. Instead, the impacts reported in the Outline are based on large-firm examination data and do not take into account differences in small-firm operations or cost structures.

Moreover, while the Outline contains estimated impacts in terms of revenue loss, the CFPB does not evaluate the sustainability of the small businesses affected by looking at resultant store (non-) profitability.

In the Outline, "Covered Loans" are defined extremely broadly, but the CFPB impact estimates include only the impact on payday lending; other forms of Covered Loans, including title and installment, are unstudied from an impact standpoint.

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[20] Harris Interactive (2013), "Payday Loans and the Borrower Experience," available at http://cfsaa.com/Portals/0/Harris_Interactive/CFSA_HarrisPoll_SurveyResults.pdf (last visited May 12, 2015), at p. 5. A copy of this paper is annexed as Exhibit K.

[21] See Pew Charitable Trusts, "Payday Lending in America," available at http://www.pewtrusts.org/en/research-and-analysis/collections/2014/12/payday-lending-in-america (last visited May 12, 2015).

No portion of the CFPB's impact analysis uses residual income information from borrowers of small-business alternative products in order to estimate the impact of new ability-to-repay requirements.

No portion of the impact analysis considers whether installment loans contemplated as alternatives under the proposal are lawful in the states where small-business lenders are licensed and operate. Even if all small-business payday lenders wished to switch their business models to longer-term installment loans (on an ability-to-repay basis or otherwise), such installment credit is lawful in only approximately 12 of the 32 states in which payday lenders currently operate.

Accordingly, the CFPB has insufficient data in order to evaluate the burdens of its proposal on small business. These same missing data are necessary for the CFPB to evaluate, as it must,[22] alternative but less burdensome regulatory models that could produce similar consumer-protection outcomes.

## V. The SERs' Own Data Show that the CFPB's Proposal Will Have A Devastating Effect on Their Profitability.

As I reported at the SBAR Panel meeting, in the absence of appropriate data collection and analysis by the CFPB, a group of small-business lenders, including four SERs identified in this review, provided their financial and loan data to Charles River Associates for analysis. This analysis was underwritten by CFSA.

These data included store-by-store monthly profit-and-loss statements from six small lenders, generally over a two-year period, covering approximately 200 stores with payday lending revenues across 15 states. The businesses also provided transaction-level data for 150,000 consumers across eight small lenders with 234 stores in 6 states.

The results of this analysis show that the proposed rulemaking would devastate small-business lenders. Under the proposed long-term debt protection rules contained in the Outline, payday lending revenues are estimated to decrease by 82 percent on average for the small-business lenders analyzed. The average annual per-store net income decreased from a profit of approximately $37,000 to a loss of approximately $28,000 (a negative swing of $66,000).

Of the close to 200 stores with payday lending revenues in the analysis, 84 percent of the stores would be expected to experience net losses. Five out of the six firms with financial information included in the analysis would have experienced overall losses and would be expected at a minimum to cease operations of the unprofitable stores; the closing of unprofitable stores, even if combined with significant reductions in corporate overhead, may not be enough to return the lenders to profitability. The sole remaining firm would experience a near 70 percent decline in profitability.

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[22] 5 U.S.C. § 603(c).

As noted in the report, the rule proposals contained in the Outline would impact small entities located in rural and sparsely populated areas to an even greater extent than the impact on small entities generally.

Given the short time period involved since the promulgation of the Outline and the absence of historical data regarding the effects of application of the CFPB's ability-to-repay rulemaking variants, it was not possible to model those variants. However, there is no reason to suspect that those variants would produce superior profitability results to those reported by Charles River Associates.

A complete copy of Charles River Associates' report is annexed as Exhibit L.

## VI. Conclusion.

The CFPB's proposed rulemaking utterly fails to make the case for the drastic interventions it proposes. Although purporting to regulate on an "unfairness" basis, the CFPB's Outline makes none of the showings required under the statute: that repeat borrowing causes or is likely to cause substantial injury to consumers; the putative injury is not reasonably avoidable by consumers; and the putative injury is not outweighed by countervailing benefits to consumers or to competition.[23] It appears that the CFPB has not even sought to study these factors.

In contrast to its actions in connection with the TILA/RESPA mortgage disclosure rule, the CFPB has made no effort to conduct field experiments to tests its proposed interventions. It is thus pure speculation that the interventions the CFPB proposes will be effective to achieve their intended purpose while not completely cutting off credit to financially constrained borrowers.

Despite frequently asserting its status as "evidence-based" regulator,[24] the CFPB's proposal takes into account neither the needs and wants of consumers nor the financial survival of the lenders who satisfy those demands. More importantly, the CFPB's proposal ignores actual consumer economic welfare outcomes — as demonstrated by scientific study — and substitutes the CFPB's unsubstantiated "belief" that repeated borrowing causes substantial harm.

Finally, and perhaps most importantly, the CFPB has utterly failed to make the required investigation of the impact of its proposed rulemaking on small-business lenders and on the customers of their businesses.

[23] 12 U.S.C. § 5531(c)(1).

[24] "We're a data-driven, evidence-based agency with a philosophy of issuing regulations only where there's a strong justification for doing so." CFPB Explainer: How Small Businesses Play a Role in the Rulemaking Process, available at http://www.consumerfinance.gov/blog/category/rulemaking (last visited May 12, 2015).

For the foregoing reasons, I request that the proposed rulemaking be withdrawn, that the Outline be modified and that the SBAR Panel be reconvened to consider a revised set of proposals based on full data about small-business lenders and their borrowers.

Kindly address any requests for additional information in connection with these comments to the undersigned at dan.gwaltney@pdlcorp.us, with a copy to Hilary B. Miller, Esq., hilary@miller.net.

Very truly yours,

Daniel C. Gwaltney
Chief Financial Officer

VIA EMAIL: cfpb_payday_sbrefa@cfpb.gov

## TABLE OF EXHIBITS

A. Shapiro, R. (2011) "The Consumer and Social Welfare Benefits and Costs of Payday Loans: A Review of the Evidence," available at http://www.sonecon.com/docs/studies/Report-Payday-Loans-Shapiro-Sonecon.pdf.

B. Morse, A. (2011) "Payday Lenders: Heroes or Villains?" Journal of Financial Economics, 102:1, pp. 28-44.

C. Morgan, D., Strain, M. and Seblani, I. (2012) "Payday Credit Access, Overdrafts, and Other Outcomes," Journal of Money, Credit, and Banking,44:2-3, pp. 519–531.

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F. Bhutta, N. (2014) "Payday Loans and Consumer Financial Health," Journal of Banking and Finance, Vol. 45, pp. 230-242.

G. Bhutta, N., Skiba P. and Tobacman, J. (2015) "Payday Loan Choices and Consequences," Journal of Money, Credit and Banking, 47:2-3, pp. 223-260.

H. Wilson, B., Findlay, D., Meehan, J., Wellford, C. and Schurter, K. (2010) "An Experimental Analysis of the Demand for Payday Loans," The B.E. Journal of Economic Analysis & Policy, 10:1.

I. Priestley, J. (2014) "Payday Loan Rollovers and Consumer Welfare," available at http://ssrn.com/abstract=2534628.

J. Mann, R. (2013) "Assessing the Optimism of Payday Loan Borrowers," available at http://ssrn.com/abstract=2232954.

K. Harris Interactive (2013) "Payday Loans and the Borrower Experience," available at http://cfsaa.com/Portals/0/Harris_Interactive/CFSA_HarrisPoll_SurveyResults.pdf.

L. Charles River Associates (2015) "Economic Impact on Small Lenders of the Payday Lending Rules under Consideration by the CFPB" (unpublished manuscript).

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AHEAD OF WHAT'S NEXT.

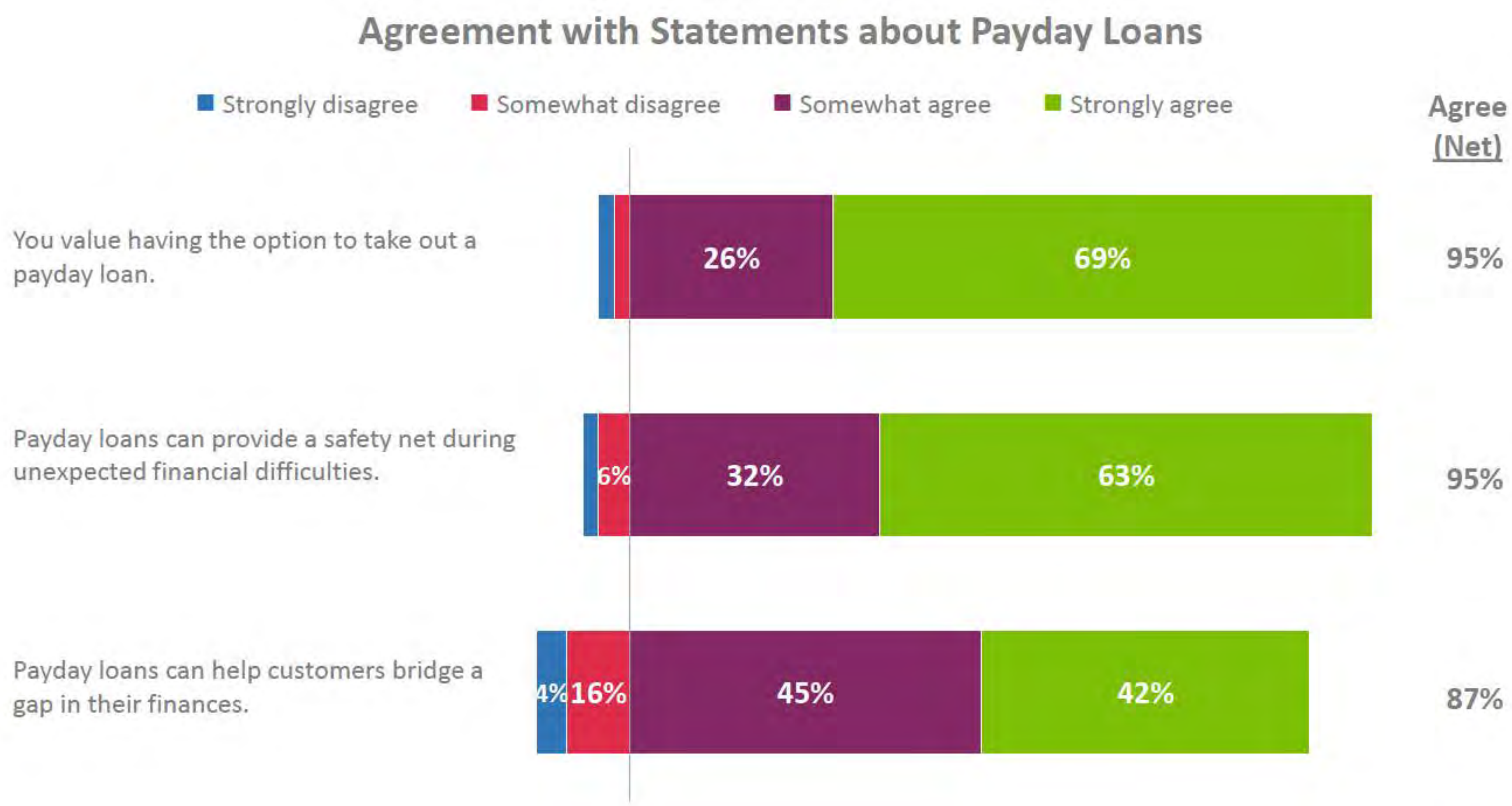
# Payday Loans and the Borrower Experience

December 2013

# Research Method & Presentation Notes

- Community Financial Services Association of America (CFSA) commissioned Harris Interactive to conduct this telephone survey from October 9 – 24, 2013 among 1,004 respondents, ages 18+, who are customers of store-front companies within the CFSA, and took out a two-week payday loan of $700 or less which they made final repayment of in July or August of 2013.
  - CFSA emailed 12 member companies inviting them to include their customer data in the sample pool for this survey, with instructions for pulling the sample attached. Member companies were instructed to email their sample files directly to Harris Interactive, and not to copy anyone from CFSA.
  - Four member companies responded and provided Harris with a complete list of their customers who met the sampling criteria. One member company responded and provided Harris with a randomly selected list of 10,000 of their customers who met the sampling criteria. A total of 281,031 records were received by Harris from the five participating member companies.
  - Harris Interactive handled all further sample preparation. Sample files were de-duped (meaning duplicate records were removed) based on phone number, and 10,000 records were randomly selected from each company (with the exception of the company which sent a total of 10,000 records – 9,667 usable records were selected from this company). Quotas were set during interviewing to ensure that 200 completed interviews were obtained from each company.
- Data are unweighted and are a representative probability sample of the population who were surveyed.
  - With a sample of this size, the estimated sampling error is +/- 3%.
- Throughout this presentation…
  - Qualified respondents will be referred to as "Borrowers".
  - The phrase "most recent payday loan experience" will refer to the loan borrowers repaid in July or August of 2013 – regardless if they have taken out a new loan since, as this was their most recent, complete experience with a payday loan.

Ninety-five percent of borrowers say they value having the option to take out a payday loan and the same proportion believe that payday loans can provide a safety net during unexpected financial difficulties. Just under nine in ten borrowers feel that payday loans can help customers bridge a gap in their finances.




**Base: Qualified respondents (n=1,004)**
**Q740** How much do you agree or disagree with each of the following statements?
**Q700** How much do you agree or disagree with each of the following statements about payday loans?

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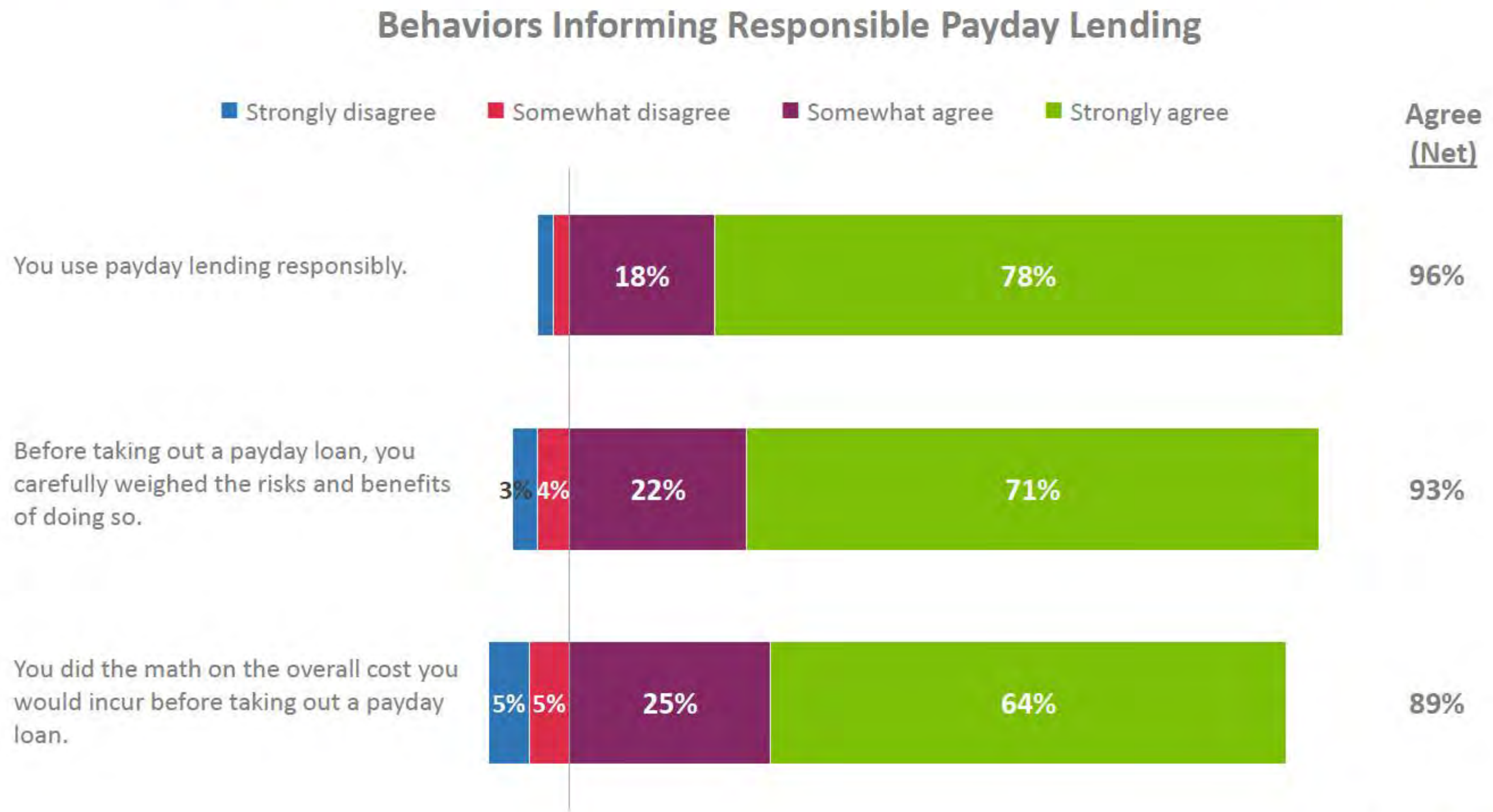
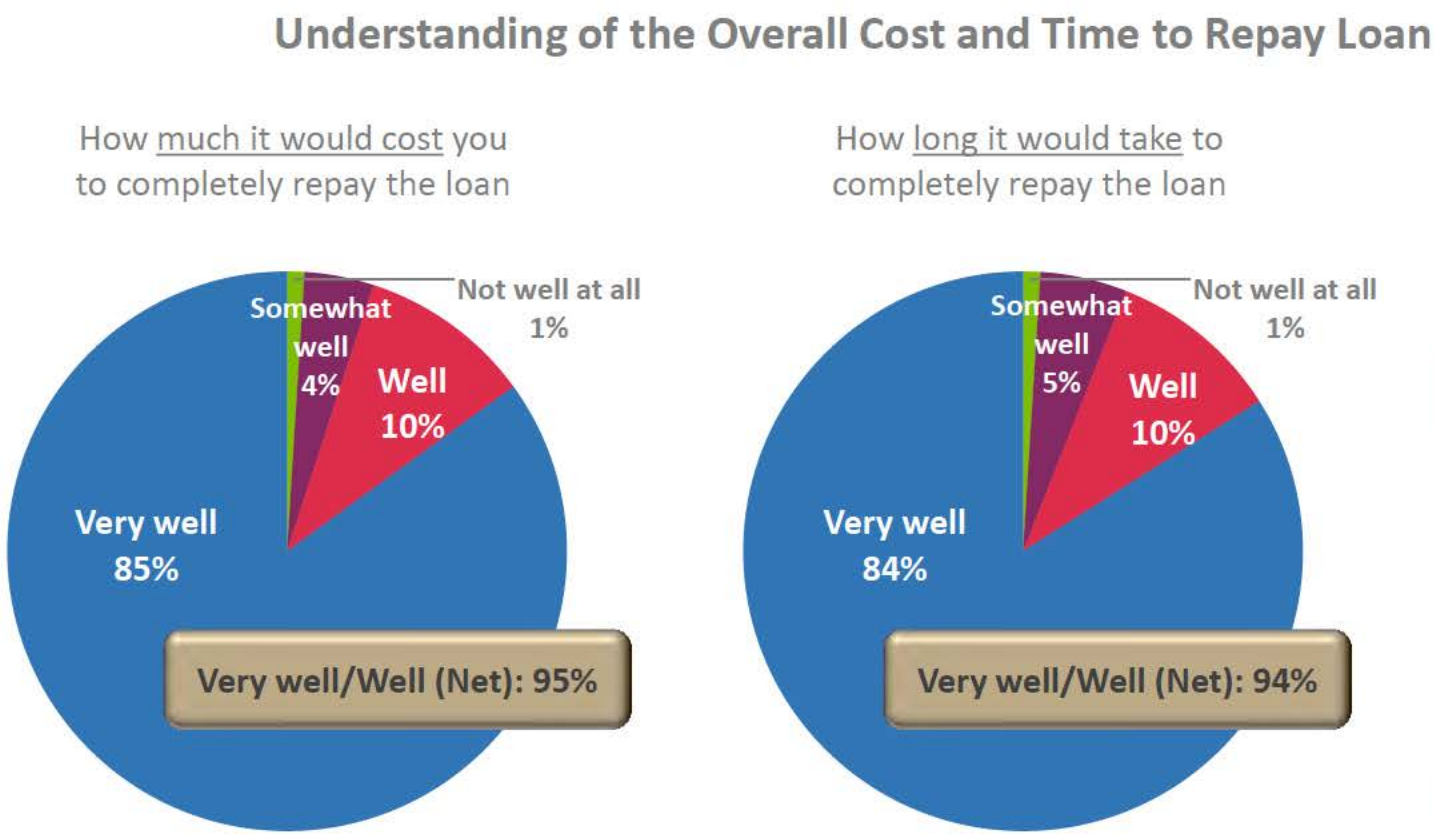
## Over nine in ten borrowers say that they use payday lending responsibly, and similar proportions say that before taking out a payday loan, they carefully weighed the risks and benefits of doing so and did the math on the overall cost they would incur.




**Base: Qualified respondents (n=1,004)**
**Q800** How much do you agree or disagree with each of the following statements about the payday loan you recently paid off?
**Q740** How much do you agree or disagree with each of the following statements?

## More than nine in ten borrowers report that before starting the payday loan process, they understood both how much it would cost and how long it would take to completely repay the loan very well or well, and a similar proportion indicate that they were able to repay their loan in the amount of time they had expected to.




**94% of borrowers agree they were able to repay their payday loan in the amount of time they had expected.**

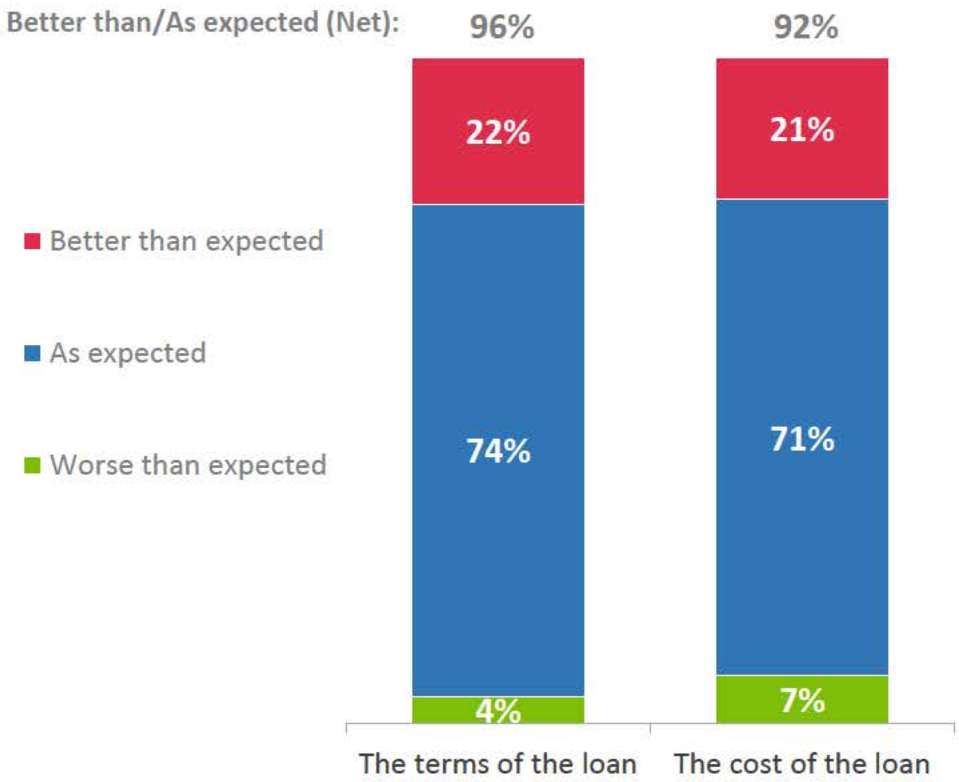
**Base: Qualified respondents (n=1,004)**

**Q805** Still thinking of the payday loan you recently paid off, how well did you understand each of the following aspects of the loan before starting the process?

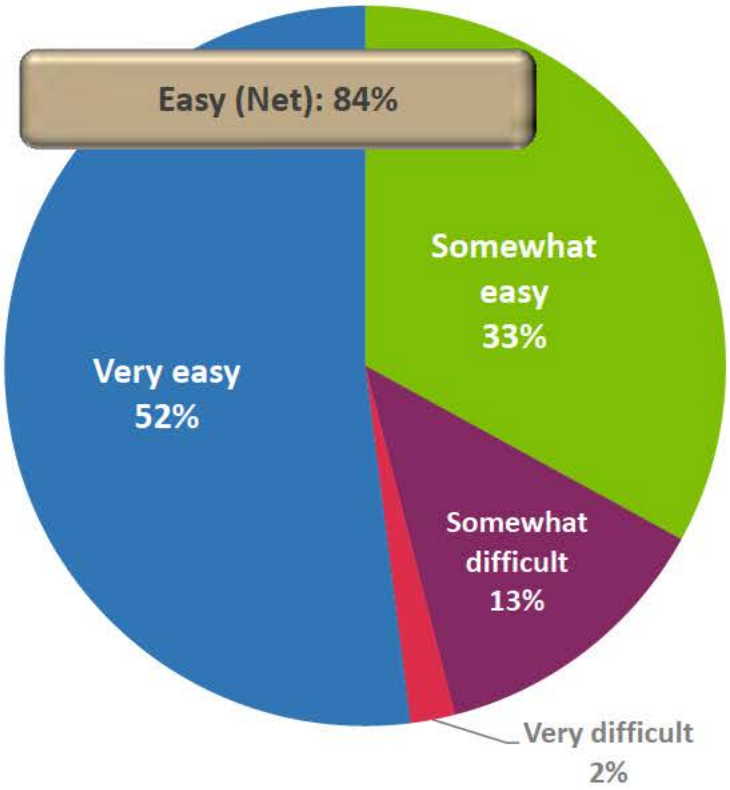
**Q740** How much do you agree or disagree with each of the following statements?

By a large majority, borrowers say their experience with both the terms and the cost of the payday loan were either as expected or better than expected. Over four in five say it was very or somewhat easy to repay their payday loan, including more than half who say it was *very easy*. 16% feel it was very or somewhat difficult to repay.

## Loan Experience vs. Expectations




## Ease of Repayment




**<u>Base: Qualified respondents (n=1,004)</u>**

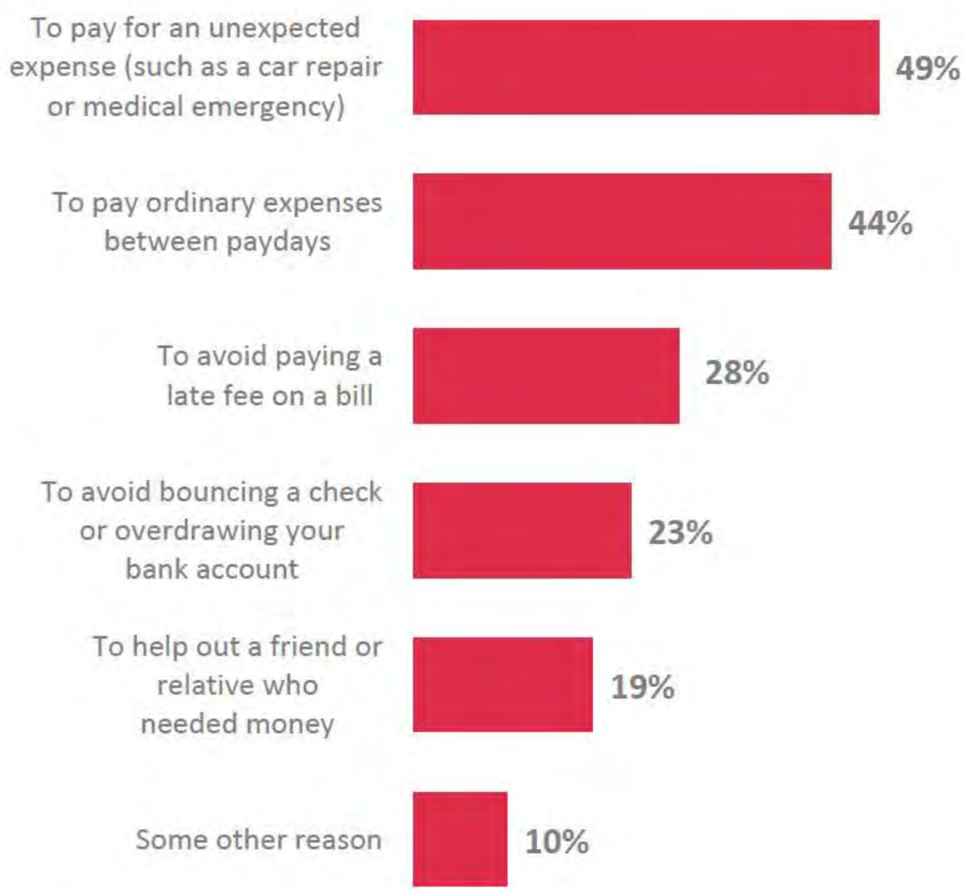
**Q720** Still thinking of the payday loan you recently repaid, was your experience with each of the following better than you had expected, as you expected, or worse than you had expected before beginning the payday loan process?

**Q730** How easy or difficult was it for you to repay your payday loan this past summer?

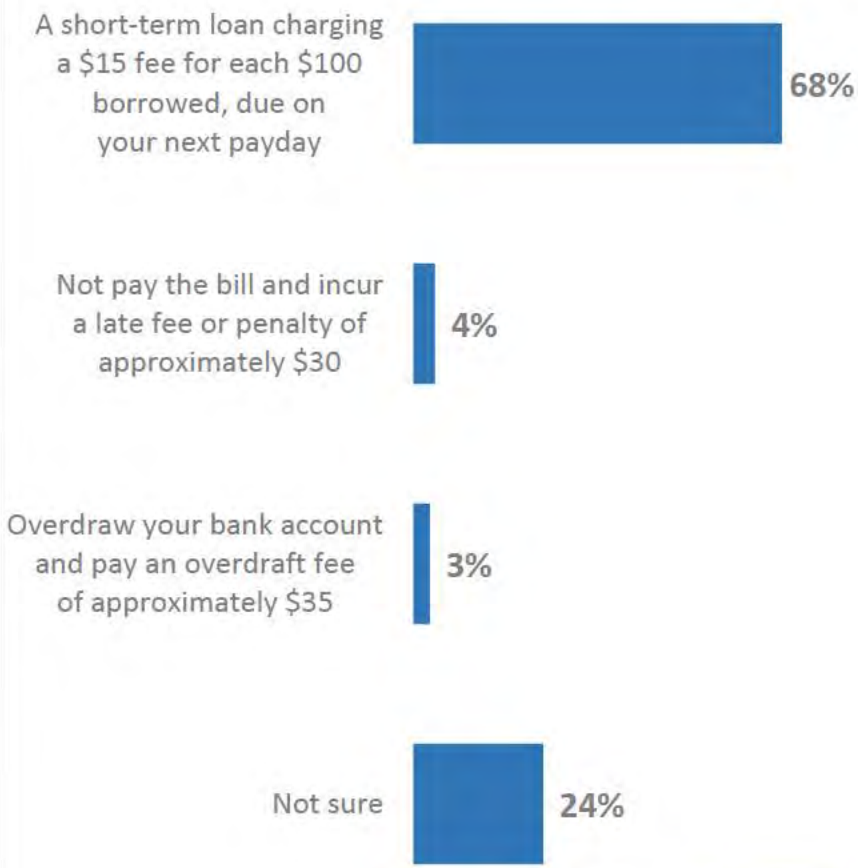
harris INTERACTIVE

## Half of borrowers say they needed the money from a payday loan to pay for an unexpected expense, such as a car repair or medical emergency. If faced with a short-term financial crisis and unable to pay a bill, borrowers overwhelmingly say they would prefer the payday loan option over incurring late fees on a bill or overdraft fees from their bank.

### Reasons Payday Loan was Needed




### Preference in Short-term Financial Crisis




**Base: Qualified respondents (n=1,004)**

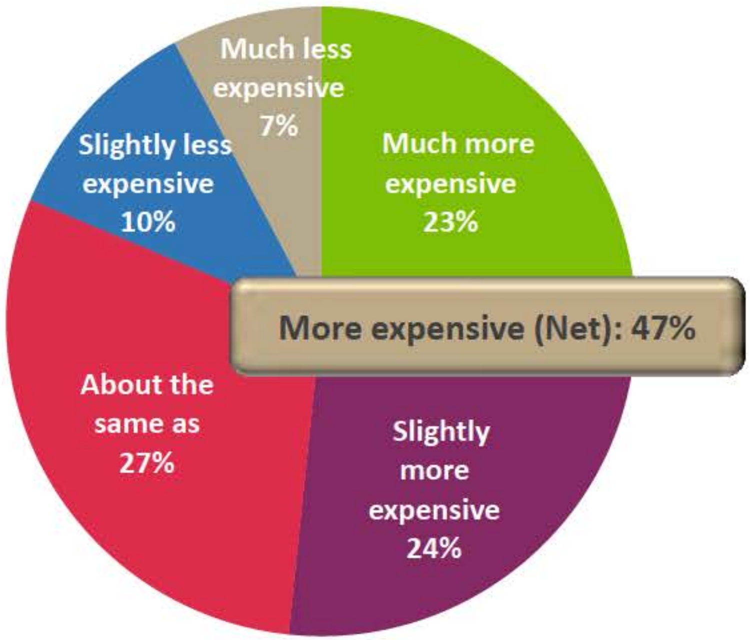
**Q710** Still thinking of the payday loan you repaid this past summer, which of the following are reasons you needed the money?

**Q835** If you were faced with a short-term financial crisis and unable to pay a bill, which one of the following three options would you choose?

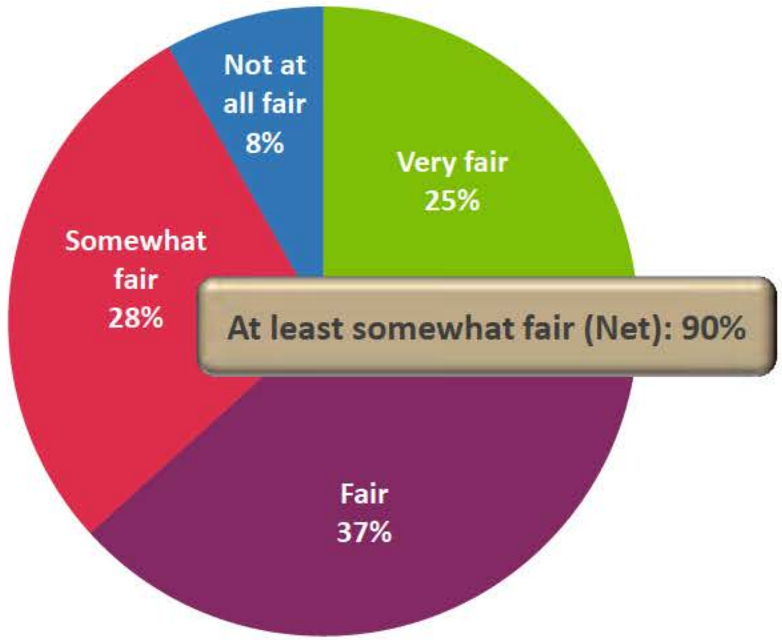
harris INTERACTIVE

## Nearly half of borrowers believe that compared to other lending resources, payday loans are much or slightly more expensive, while over one-quarter say they are about the same, and 17% feel they are slightly or much less expensive. Additionally, a majority of borrowers think a flat fee of $15 per $100 borrowed as a payday loan term is very fair or fair, while over one-quarter feel more neutral, saying it is somewhat fair, and 8% say it is not at all fair.

### Expense of Payday Lending vs. Other Lending Resources




### Fairness Assessment of Flat Fee of $15 per $100 Borrowed

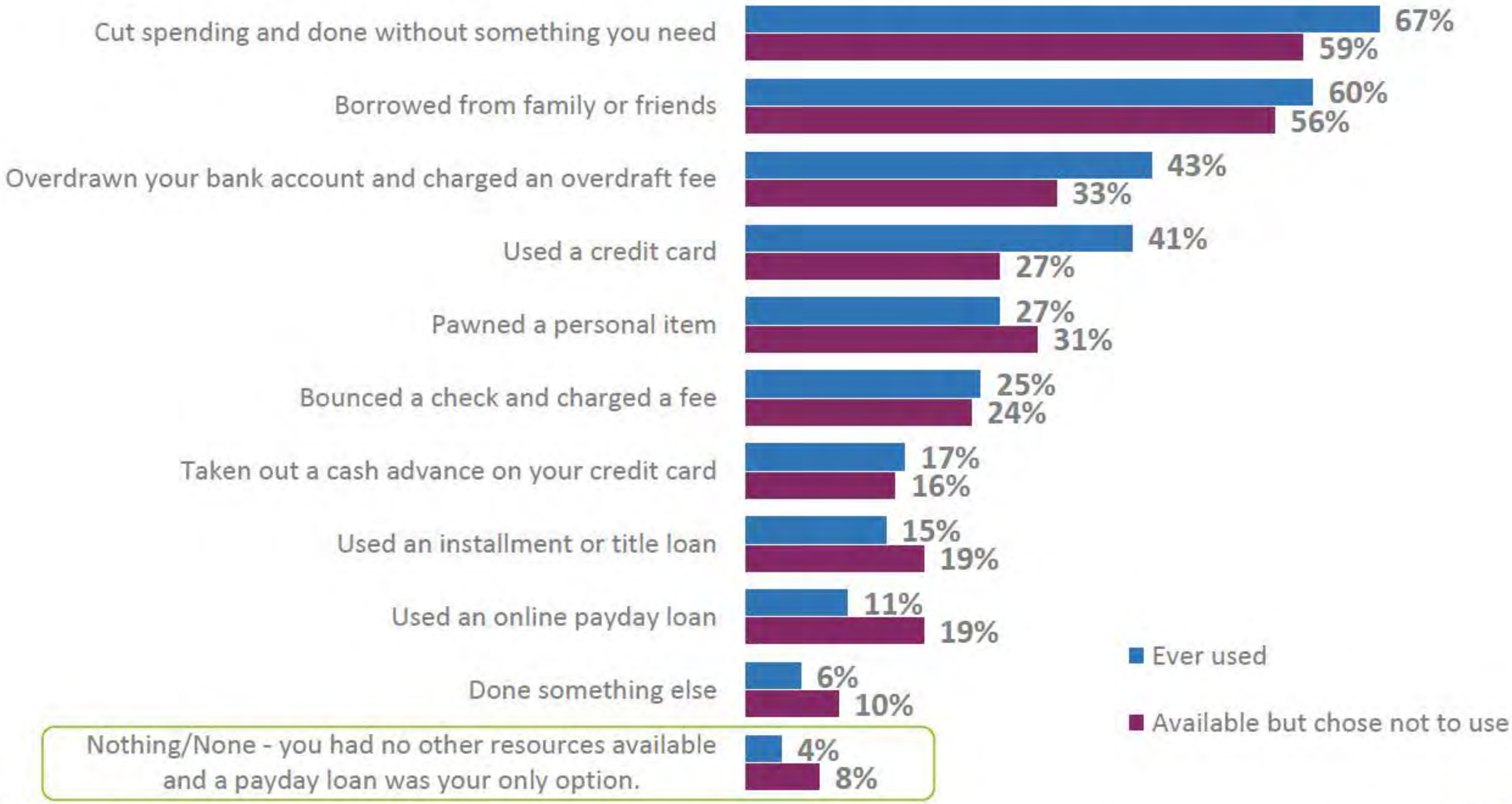



**Base: Qualified respondents (n=1,004)**
**Q760** How does the cost of payday loans compare to other lending resources?
**Q830** How fair is a flat fee of $15 per $100 borrowed as a payday loan term?

harris INTERACTIVE

## A plurality of borrowers report that when they needed money between paychecks in the past, they have cut spending and done without something they need, or borrowed from family/friends. Most say that these or other options were available when they chose to take out a payday loan instead – 92% indicate that a payday loan was <u>not</u> their only option and they did have other resources available at the time.

### Money Resources Ever Used vs. Those Available but Not Chosen




**<u>Base: Qualified respondents (n=1,004)</u>**

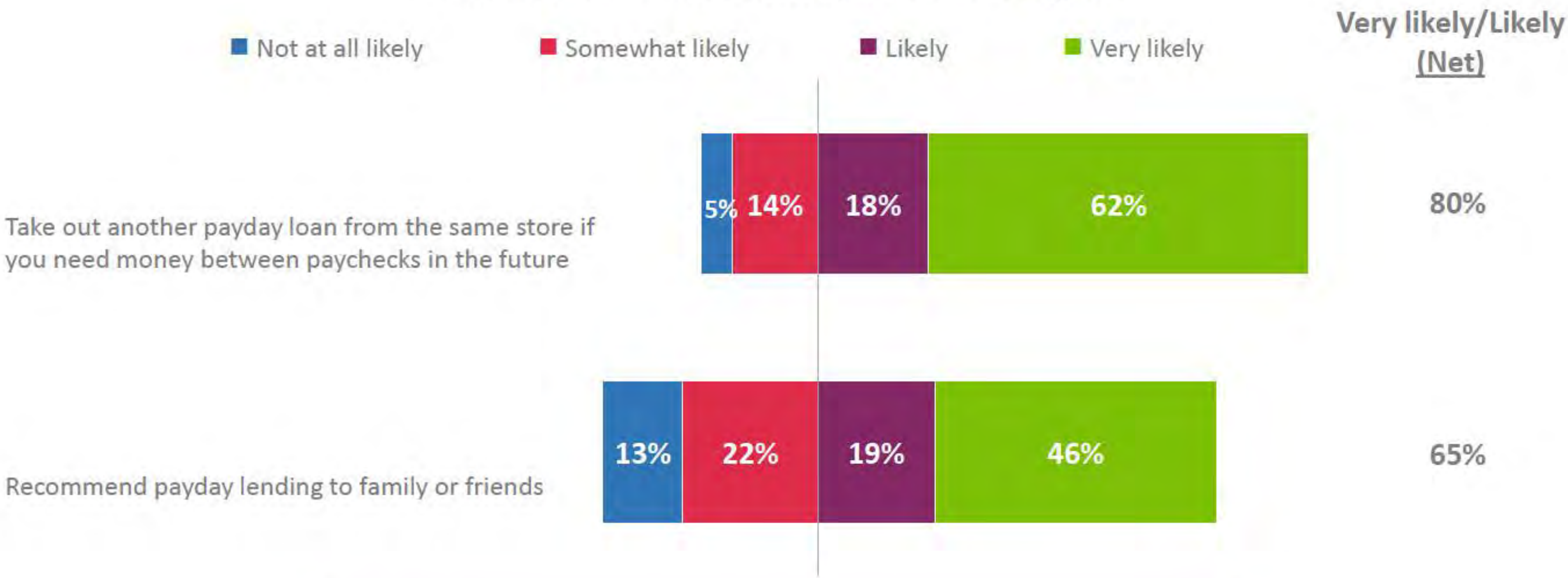
**Q745** Besides taking out a loan at a payday loan store, what else have you done when you needed money between paychecks?

**Q750** Thinking again of the payday loan you repaid this past summer, if you had not been able to obtain a payday loan, which of the following resources could you have used instead?

harris INTERACTIVE

The vast majority of borrowers indicate that their most recent overall experience with the payday loan process was as expected or better. Moreover, two-thirds say they are very likely or likely to recommend payday lending to family or friends.

## Likelihood to Recommend or Use Again




**97% of borrowers say their overall payday loan experience was as expected (61%) or better than expected (36%).**

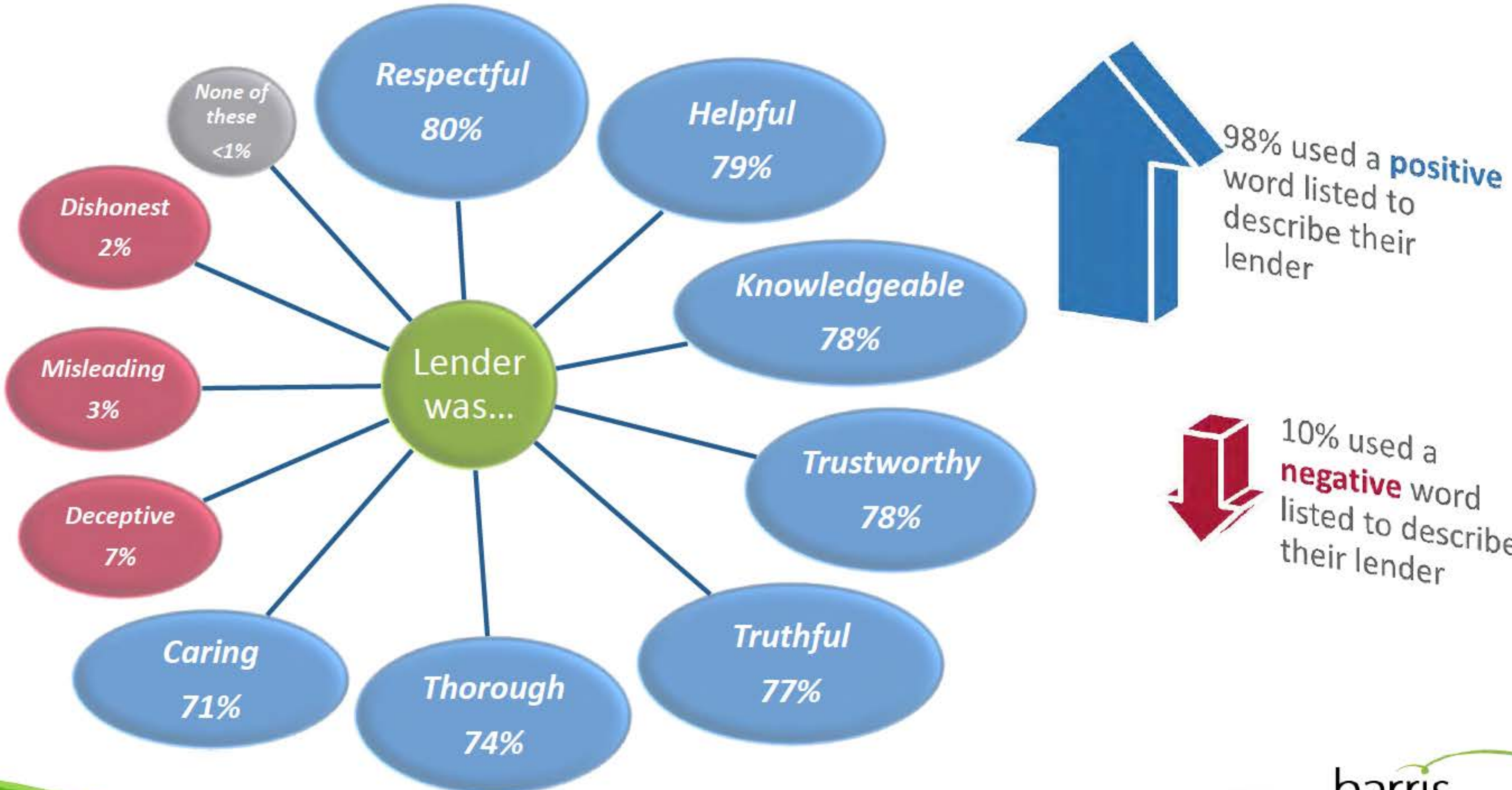
**Base: Qualified respondents (n=1,004)**

**Q825** Based on your experience with the payday loan you recently paid off, how likely are you to do each of the following?

**Q720** Still thinking of the payday loan you recently repaid, was your experience with each of the following better than you had expected, as you expected, or worse than you had expected before beginning the payday loan process?

Borrowers tend to choose positive words to describe the payday lender they worked with during their most recent payday loan experience: about four in five say their lender was respectful, helpful, knowledgeable, trustworthy, and truthful. However, 7% say deceptive, and a few respondents say misleading or dishonest.

## Words Used to Describe Lender




Base: Qualified respondents (n=1,004)

Q820 Which of the following words would you use to describe the lender you worked with on the payday loan you recently paid off?

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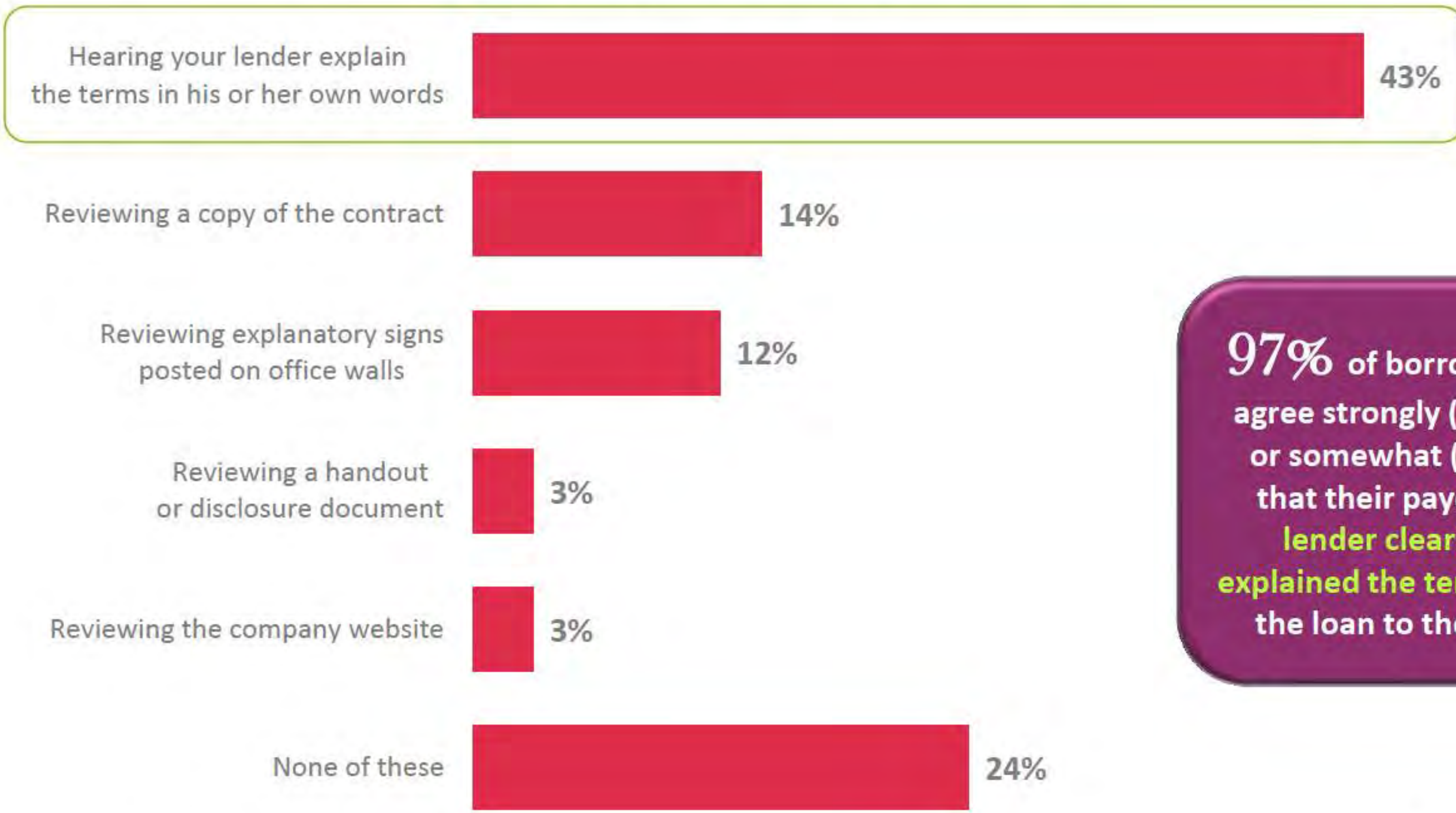
## The vast majority of borrowers indicate that their payday lender clearly explained the terms of the loan to them. In fact, hearing their lender explain the loan terms in his or her own words was, by far, the most helpful factor in borrowers' decision to take out a payday loan.

### Most Helpful Factor in Payday Loan Decision

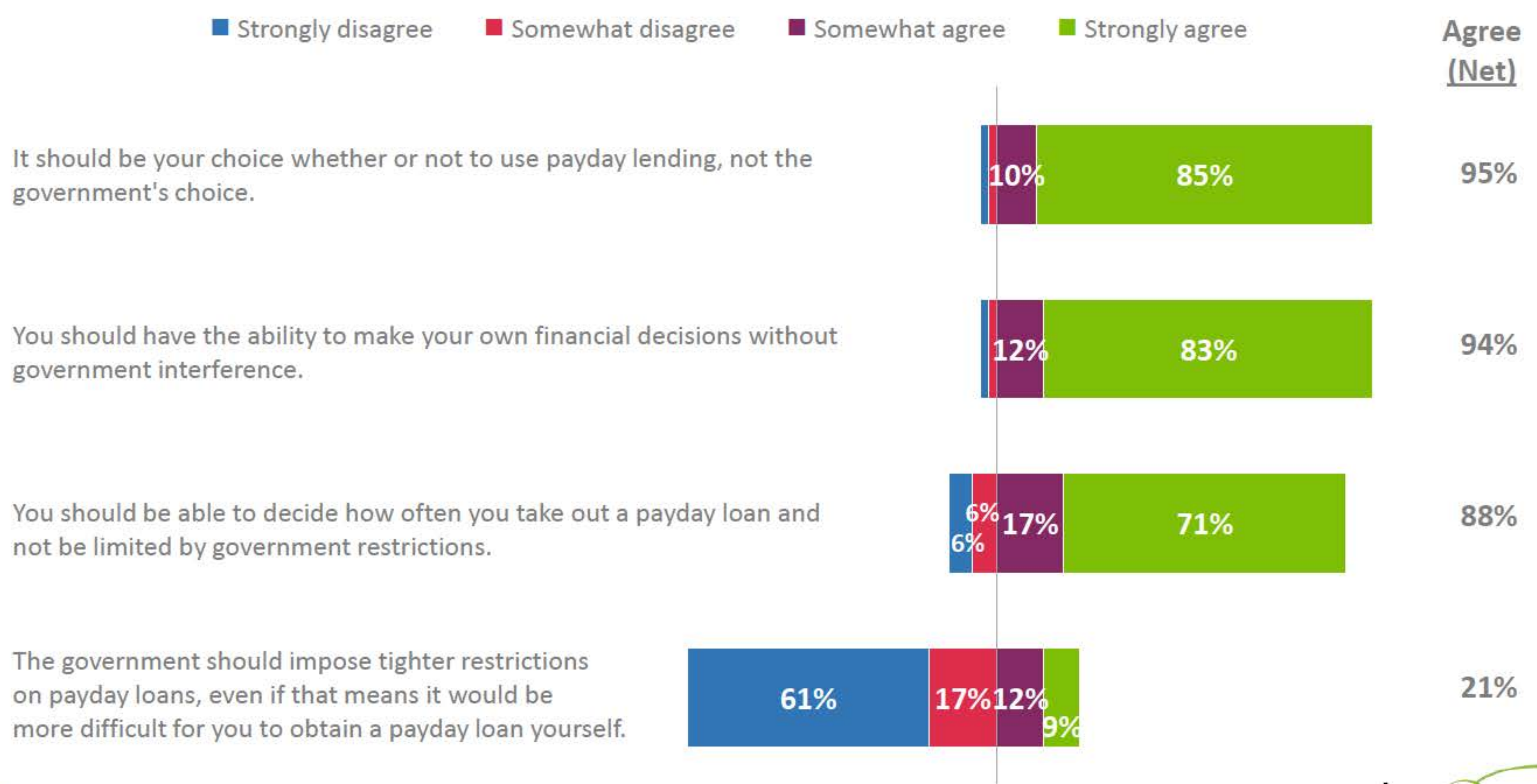



**97% of borrowers agree strongly (88%) or somewhat (9%) that their payday lender clearly explained the terms of the loan to them.**

**Base: Qualified respondents (n=1,004)**
**Q815** Which of the following was most helpful in making your decision to take out a payday loan?
**Q800** How much do you agree or disagree with each of the following statements about the payday loan you recently paid off?

## Over nine in ten borrowers agree that it should be their choice whether or not to use payday lending, not the government's choice, and that they should have the ability to make their own financial decisions without government interference. However, a one in five minority say the government should impose tighter restrictions on payday loans.

### Attitudes about Government Regulation of Payday Loans




**Base: Qualified respondents (n=1,004)**
**Q910** How much do you agree or disagree with each of the following statements?

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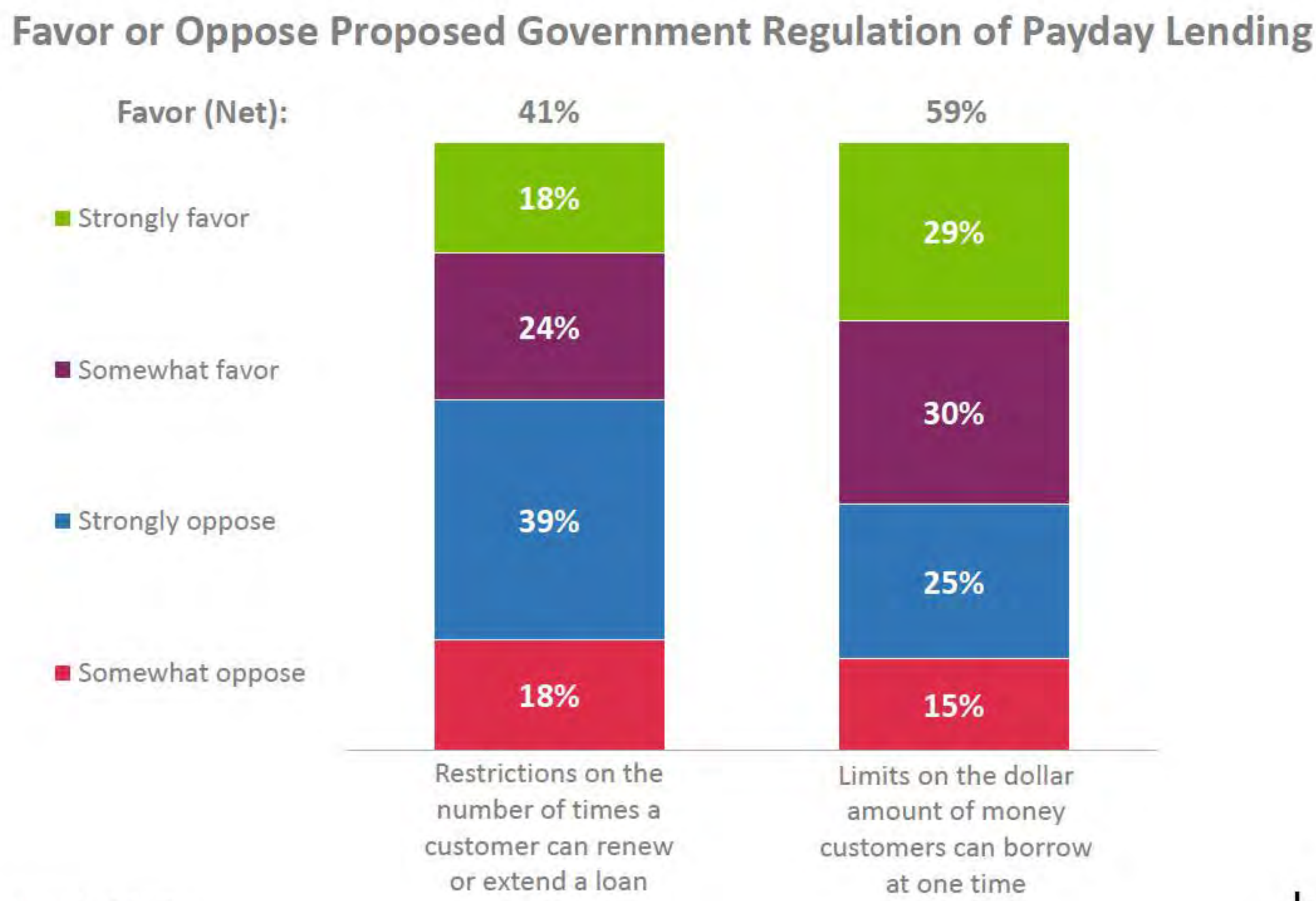
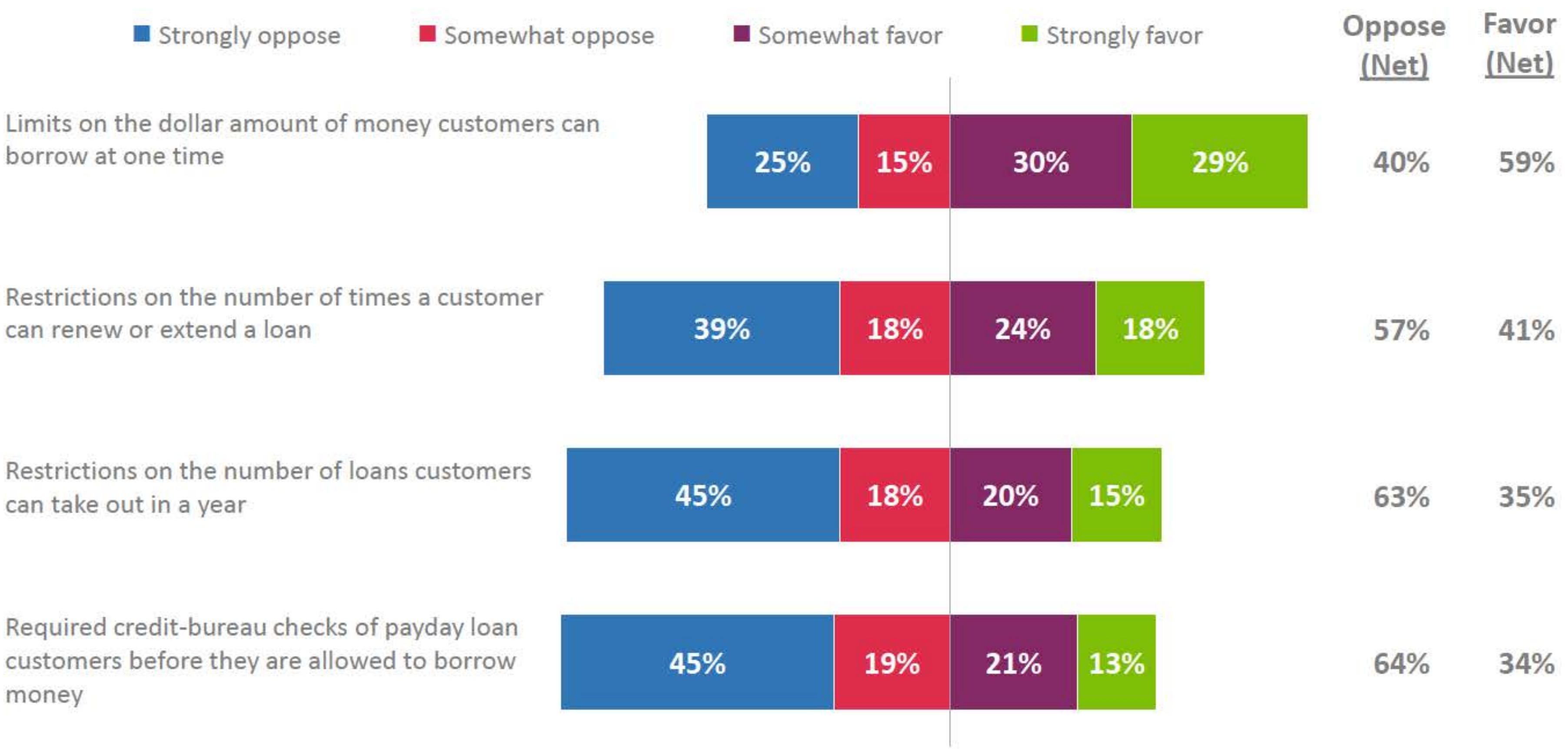
## Three in five favor the government setting limits on the dollar amount of money customers can borrow at one time, and two in five feel the same about government restrictions on the number of times a customer can renew or extend a loan.




**Base: Qualified respondents (n=1,004)**
**Q905** To what extent do you favor or oppose each the following potential governmental regulations surrounding payday lending?
**Q910** How much do you agree or disagree with each of the following statements?

The majority of borrowers oppose potential government regulations that would require credit-bureau checks of payday loan customers before they are allowed to borrow, restrict the number of loans customers can take out in a year, and restrict the number of times a customer can renew or extend a loan. However, three in five do favor the government setting limits on the dollar amount of money customers can borrow at one time.

## Favor or Oppose Proposed Government Regulation of Payday Lending




**Base: Qualified respondents (n=1,004)**

**Q905** To what extent do you favor or oppose each the following potential governmental regulations surrounding payday lending?

harris INTERACTIVE

# Conclusions & Implications

- **The overwhelming majority of borrowers provide positive feedback regarding payday lending and their most recent experience with the payday loan process.**
  - 94% of borrowers agree they were able to repay their payday loan in the amount of time they had expected.
  - Over four in five (84%) say it was very or somewhat easy to repay their payday loan, including more than half (52%) who say it was *very easy*.
  - About four in five borrowers say the lender they worked with during their most recent payday loan experience was respectful (80%), helpful (79%), knowledgeable (78%), trustworthy (78%), and truthful (77%).

- **However, considerable numbers of borrowers provide feedback on areas for improvement.**
  - Nearly half (47%) of borrowers believe that compared to other lending resources, payday loans are much more (23%) or slightly more (24%) expensive.
  - While a majority of borrowers think a flat fee of $15 per $100 borrowed as a payday loan term is very fair (25%) or fair (37%), over one-quarter (28%) say it is just somewhat fair, and 8% say it is not at all fair.

- **A majority of borrowers are opposed to most potential government regulations that would affect payday loan customers, however some regulations do receive borrower support.**
  - 95% say it should be their choice whether or not to use payday lending, not the government's choice.
  - About two-thirds of borrowers are opposed to regulations that would require credit-bureau checks of payday loan customers before they are allowed to borrow money (64%) and restrict the number of loans customers can take out in a year (63%).
  - However, three in five (59%) do favor the government setting limits on the dollar amount of money customers can borrow at one time.

CRA Charles River Associates

# Economic Impact on Small Lenders of the Payday Lending Rules under Consideration by the CFPB

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May 12, 2015

CRA Charles River Associates

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## EXECUTIVE SUMMARY

The Community Financial Services Association of America ("CFSA") retained Charles River Associates ("CRA") to evaluate the likely impact on small payday lenders of the rules under consideration by the Consumer Financial Protection Bureau ("CFPB").[1] This study includes an evaluation of the impact on the payday lending revenues and profitability of small payday lenders.

Using loan level data and income statements collected from a sample of small payday lenders, we estimate that the proposals are likely to impact the lenders both negatively and significantly. The Proposed Rules will likely make the small stores that offer payday loans unprofitable on average, resulting in significant losses for small payday lenders. The application of the CFPB's considered alternative requirements to data from 2013 would have reduced the payday loan revenues of small lenders by 82% on average. The impact of this revenues reduction would have resulted in a change to net income per store from a +$37,000 profit to a -$28,000 loss, on average (or a decrease of about $66,000 on average). We lack sufficient data to analyze reliably the impact of the CFPB's proposed ability to repay requirements, but that impact may also be significant.

## PAYDAY LENDING INDUSTRY OVERVIEW

A payday loan is a single-payment short-term small value unsecured loan.[2] In many cases, the lender holds a personal check issued by the debtor in the amount of principal plus interest until the maturity of the loan. The transaction could also be based on an agreement authorizing the lender to make an electronic withdrawal from the borrower's checking account on the maturity date. Underwriting standards vary across lenders, but the lender generally requires proof of the borrower's income (recent pay stubs usually suffice) and that the borrower has a checking account. A lender could assess the applicant's previous performance on payday loans it granted previously. Some lenders have developed more sophisticated in-house risk assessment software, or rely on third-party providers (e.g., CoreLogic Teletrack), to assess default risk considering such factors as the applicant's performance on payday loans and/or other credit products. In certain states, a lender checks a state-level database to identify payday loans granted to the applicant by other lenders in that state. For example, a lender could verify the applicant's outstanding balance of all other payday loans to ensure that the loan under consideration would not result in indebtedness exceeding the state cap. The maturity date for loan repayment usually coincides with the borrower's next paycheck or date-of-deposit of other funds. At maturity, either the personal check from the debtor is deposited by the lender or the borrower pays in cash to redeem the check.

Payday lenders are regulated primarily at the state level, and there are variations in the restrictions that exist across states. For example, there are requirements regarding the maximum fees and/or interest that can be charged, the maximum loan amount, the

[1] Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans. Outline of Proposals Under Consideration and Alternatives Considered, CFPB March 26, 2015; available at http://files.consumerfinance.gov/f/201503_cfpb_outline-of-the-proposals-from-small-business-review-panel.pdf, last accessed on 4/28/2015 ("CFPB's Proposed Rules").

[2] Also known as deferred deposit, deferred presentment transaction, post-dated check loan, payday advance, deposit advance or cash advance loan.

maximum number of rollovers or renewals, assets and bond requirements, and license and registration requirements. In certain states, such restrictions have contributed to no lender operating in those states.[3] At the federal level, the restrictions imposed on the payday loans to active duty service members and their spouses, children, and other dependents by the 2007 National Defense Authorization Act have effectively led lenders to stop offering payday loans to this group. In addition, payday lenders are subject to various federal regulations such as The Truth in Lending Act and the Equal Credit Opportunity Act.

Based on the latest data available, there were about 19,000 payday lender locations in 36 states during 2012, each of which had, on average, about 2.5 employees involved directly in payday lending.[4, 5]

## CFPB'S PROPOSED RULES

The CFPB is considering the imposition of new rules that would place restrictions on the provision of certain short-term and longer-term loans. Covered short-term loans would include loans with maturity no longer than 45 days. The covered longer-term products would include loans with maturity longer than 45 days with an all fees included annual percentage rate greater than 36% "where the lender obtains a preferred repayment position by either obtaining (1) access to repayment through a consumer's account or paycheck, or (2) a non-purchase money security interest in the consumer's vehicle."[6, 7] Most payday loans currently offered will be considered short-term products under the CFPB's Proposed Rules. As a result, our study focused only on the effects of the short-term loans provisions.

The CFPB is considering allowing a lender to choose among two sets of restrictions:

- The prevention (ability to repay) requirements; and
- The protection (alternative) requirements.

### *The Prevention Requirements*

Under these rules, for each loan application, the lender must determine, for an underwriting period defined from the loan origination date until 60 days after the loan maturity date, that the borrower has the ability to repay the loan without reborrowing or defaulting, while satisfying any major financial obligations and living expenses, such as food and transportation. Under the ability to repay requirements, the lender would be

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3 See, for example, http://www.ncsl.org/research/financial-services-and-commerce/payday-lending-state-statutes.aspx, last accessed on 4/29/2015.

4 This does not include the locations of some depository institutions that offered deposit advances, tribal lenders or other entities not licensed or registered with state regulators to engage in payday lending.

5 Economic Impact of the Payday Lending Industry, prepared for CFSA, Marsha Courchane and Steli Stoianovici, Charles River Associates, July 8, 2014.

6 The CFPB's Proposed Rules, p. 6.

7 The CFPB's Proposed Rules do not cover overdraft services, pawn loans, credit card accounts, student loans, and real estate secured loans.

required to consider, document and verify the applicant's income, credit history, financial obligations, including any housing payments (including mortgage or rent payments), debt obligations, child support or other legally required payments. The lender would also be required to consider the borrower's recent borrowing history, including the history with other payday loan lenders. A lender is prohibited from granting more than three loans in a sequence; with a loan sequence consists of any loan that is taken out within 60 days of another outstanding loan. In addition, the lender is allowed to grant a second or third loan in a sequence only if it can document and verify that the applicant's ability to repay has improved.

### *The Alternative Requirements*

A lender can choose to grant a loan without meeting the ability to repay constraints if it meets the alternative requirements. These consist of screening requirements and structural limitations. In addition to verifying the applicant's income and borrowing history, the consumer cannot take out a loan if (i) the consumer has an outstanding payday loan with any lender; (ii) the loan is part of a sequence with more than three loans; (iii) the new loan would result in the consumer receiving more than six loans in the last 12 months; (iv) the new loan would result in the borrower being in debt (on payday loans) for more than 90 days in the last 12 months. The structural limitations impose a cap on the loan amount ($500) and term (45 days), and require the loans in a sequence to taper off. The lender could either decrease the principal for the second and third loan in a sequence, or could allow a no-cost four installments extension of the third loan in a sequence.

The rules under consideration also include collection restrictions and compliance requirements, including written notification to borrowers prior to each attempt to collect payment (even though the borrower already authorized the lender for that purpose at origination). After two failed attempts to receive the loan payment from the borrower's account, the lender would have to obtain a new authorization from the borrower.

## METHODOLOGY AND FINDINGS

### DATA

CRA received loan level data and financial information from a sample of small payday lenders which are CFSA or Financial Service Centers of America members.

The loan level data ("Loan Data") consist of loan transactions from eight lenders and include information on loan characteristics and performance (loan amount, fees, loan date, term, the date the loan was paid), on the borrower (social security number, income, pay period) and on the store that originated the loan (state, zip code). Most of the lenders provided two years of data, for loans originated in 2012 and 2013. The Loan Data used in the analysis reflect 1.8 million loans to 150,000 consumers across 234 stores and 16 states. A typical loan, as measured by the median statistic, was for $255 with a term of 14 days and generated a $45 fee. The loans in the data we analyze are typically smaller than the loans included in the data CFPB collected ($255 vs. $350).[8] However, the usage patterns are similar – see Appendix A.[9]

We also received monthly Profit & Loss ("P&L") statements at store level from six small lenders, mostly for a 2-year period, covering about 200 stores with payday lending revenues across 15 states. The level of detail of each revenue or cost category reflected the financial reporting practices of the particular lender. For the stores analyzed, the revenues from payday loans represented about 92% of the companies' total revenues in 2013. During 2013, the stores averaged $37,000 in positive net profits as measured by net income.

### The Prevention Requirements

We expect that the ability to repay requirements would require substantial changes to the operations of payday lenders. The CFPB envisions payday loan underwriting standards that appear to be more stringent than the standards used by mortgage originators. Given the typical loan size and the state specific fee caps which are applicable in most of the states in which the payday lenders operate, lenders may find it difficult to recover the additional costs generated by the compliance with the proposed requirements.

We lack sufficient data to estimate how many of the loans previously granted by lenders would have failed to meet the prevention requirements. In addition, these extensive documentation and verification requirements appear to change the product dramatically. As a result, estimating the demand for such a "new" product based on current payday loan data might be unreliable.

### The Alternative Requirements

To assess the potential impact of the alternative requirements, we analyzed the financial position of the small lenders in three steps. We estimated:

- The change in payday loan revenues;
- The change in costs;
- The change in net income.

### Payday Loan Revenue Changes

We estimated the change in payday loan revenues based on the Loan Data. For each borrower, we analyzed their loan history and determined whether or not each loan would have met the requirements considered. We assumed that if a loan did not meet the requirements that loan would not have been originated. We then compared the fees

[8] Payday Loans and Deposit Advance Products, CFPB, April 24, 2013, p. 15; available at http://files.consumerfinance.gov/f/201304_cfpb_payday-dap-whitepaper.pdf, last accessed on 5/12/2015.

[9] CFPB Data Point: Payday Lending, The CFPB Office of Research, March 2014; available at http://files.consumerfinance.gov/f/201403_cfpb_report_payday-lending.pdf, last accessed on 5/1/2015.

hypothetically generated by the loans that met the alternative requirements with the fees generated by the actual loans originated and calculated the percentage change in payday lending revenues that can be attributed to the application of the alternative requirements envisioned by the CFPB's Proposed Rules.

To undertake this analysis, we separated the Loan Data of each borrower into two periods: a 12-month assessment period and a subsequent policy period. The assessment period started on the date of the first loan and ends 364 days later. For example, the 12-month assessment period that began on 1/1/2012 ended on 12/30/2012 (since February has 29 days). The policy period for that borrower began on 12/31/2012. For borrowers with loans from two or more lenders in our sample, we had two (or more) dates that could be used to define the start of the assessment period (e.g. the loan date of the first loan from lender 1 or the loan date of the first loan from lender 2). We use the date of the earliest loan as the beginning of the assessment period. In these rare cases, the assessment period may be longer than 364 days. The assessment period data were used to determine whether a loan granted in the policy period would have met the proposed alternative requirements. The revenues associated with loans during the assessment period were excluded from the calculation of the revenue decline. The policy period data were used both to determine whether a loan granted in the policy period would have met the proposed alternative requirements and to calculate the revenue change.

For each borrower, each loan in the policy period was analyzed sequentially, applying the following parameters to determine if the loan would have met the alternative requirements.

1. We determined whether five or more loans would have been granted to the borrower during the 365 days preceding the date of the proposed new loan.
2. We determined whether the duration of indebtedness exceeded 90 days in the 365 days preceding the maturity date of the proposed new loan. A loan that started prior to this 365 days window contributes to this calculation only the number of days that are within this 365 days window.
3. We determined if there was any loan outstanding as of the date of the proposed new loan. To make this determination, we calculated the number of days from the payoff of the previously granted loan. If the date paid was missing, we assumed the previous loan ended at the date of the proposed new loan. We believe this is a conservative assumption. If we had assumed that a loan with a missing date paid remained outstanding, then no subsequent loan would meet the alternative requirements, and the decrease in payday loan revenues would be even larger than what we report here.
4. We determined if the proposed new loan would be the fourth in a sequence of granted loans.

If the proposed new loan failed any of these four tests, we assumed the loan did not occur. If the proposed new loan passed these four tests, we assumed the loan originated and undertook the following analyses and adjustments.

5. We determined if the new loan would be the first loan in a potential new sequence or a subsequent loan in an existing sequence based on the number of days from the payoff of the previously granted loan. If the new loan was part of a sequence, we determined its rank in that sequence – that is, whether the new loan was the second or third loan in the sequence.

6. If a new loan was determined to be the second loan in a sequence, we reduced its principal and fees by 33%. If the new loan was the third loan in a sequence, we reduced its principal and fee by 67%, consistent with the example the CFPB included in its Proposed Rules.[10]
7. If the principal of the new loan exceeded $500, we assumed that the principal would be reduced to $500 and the borrower would still have proceeded with the loan. We adjusted the loan fee proportionally. We applied this adjustment after we made the adjustment described above for the second or third loan in a sequence. Less than 1% of actual loans in the policy period exceeded $500.
8. If the new loan had a term greater than 45 days, we assumed that the borrower would still have proceeded with a 45 day loan, and we adjusted the maturity date to 45 days. We similarly adjusted the loan payoff date, constraining the adjusted payoff date to not precede the loan date.[11, 12]

Based on these parameters, we determined whether each loan in the policy period met the alternative requirements and could have been originated under the CFPB's Proposed Rules and what fee revenue it would have generated. See Appendix B for a numerical example.

We next estimated the decrease in payday lending revenues as the ratio of total actual fees less the total adjusted fees that met the alternative requirements relative to the total actual fees of the loans in the policy period ([actual fees – adjusted fees] / actual fees).

Given the variation in the state level current regulatory constraints, we estimated the change in the payday lending revenues at the state level, based on the location of the store that granted the loans.

### RESULTS OF THE ESTIMATED REVENUE CHANGES

Under the alternative requirements, the decrease in payday lending revenues varied across states from approximately 70% to 92%. Overall, we estimated an average decrease of 82% for the small lenders we analyzed.

As we showed in Appendix C, stores in rural areas are likely to be affected more by the CFPB's Proposed Rules than other stores. Each point on the graphs represents a store. Stores in locations with relatively lower population density areas tend to have relatively fewer customers (see Chart 1). Generally, the fewer customers a store has, the larger the estimated decrease in its payday loan revenues, as shown in Chart 2. For example, among stores that experienced a greater than 90% reduction in revenue, nearly all have fewer than 500 borrowers. As a result, stores located in relatively more rural areas are likely to experience a larger decrease in the payday lending revenue under the alternative requirements (Chart 3).

Consumers may respond to the CFPB's Proposed Rules in such a way that the reduction in revenues may exceed our estimate. For example, a consumer who is

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10 The CFPB's Proposed Rules, p. 17.

11 This maturity reduction assumption is conservative, and given that there were just a handful of these loans, it does not materially change our results.

12 As a practical matter of implementation, we made this adjustment prior to all other steps.

precluded by the Proposed Rules from taking out a new payday loan for six months may utilize alternative sources for funds and not return to the payday market. A consumer who is seeking a loan larger than $500 or a loan for a term longer than 45 days, but is precluded from doing so by the Proposed Rules, may choose not to take a payday loan at all. We have not attempted to estimate the potential incremental revenues lost under such scenarios. From this perspective, the decline in revenue that we estimated is conservative and actual declines may be larger.

We have also considered, but have not quantified, certain potential indirect effects. To the extent payday lenders offer other products that are complementary to payday loans, the revenue of these other products may be reduced when fewer payday loans are made. For example, if a consumer is unable to take out a payday loan, the consumer may not purchase a phone card from the payday lender or use the payday lender's money transfer services. Additionally, if the consumer is precluded from taking out the payday loan, the consumer clearly need not return to the store to pay off the loan, and the payday lender's opportunity to sell other products at the time of the loan payoff is lost.

### Cost Changes

In order to understand how profits are impacted by the expected revenue reductions, we estimated the degree to which lenders' costs would decline as revenues decrease under the CFPB's Proposed Rules. We used the monthly P&L statements for each lender to assess the degree to which their non-rent costs were fixed or variable. Based on our discussions with the lenders, we assumed that rent costs are invariant to revenue change.[13]

For each lender, for each type of cost, we estimated cost multipliers that reflect the fixed/variable nature of the cost. A cost multiplier measures the change in that cost when the payday loan revenues change by $1. Cost multipliers were estimated using actual payday loan revenues and costs as reported on the monthly P&L's. The analysis reflected the manner in which each lender aggregated its cost on its P&L. The P&L's for the lenders in our sample reflected differing degrees of variability in their cost structures with respect to changes in payday loan revenues.

While the P&L's for the lenders in our sample reflect actual increases and decreases in both revenues and costs, these actual changes are within a more narrow range as compared with the revenue declines we have estimated are likely to occur under the CFPB's Proposed Rules. As such, this approach likely overestimates the latitude that they have to reduce costs when revenues decline to the degree we have estimated here. For example, the number of employees required to be working in each store during all store hours cannot fall below one. Perhaps, it would be more realistic to assume that as revenues decline, each lender's ability to reduce costs may be diminished. We have not attempted to make such an adjustment, and we believe this approach to be conservative.

[13] For one of the lenders in our sample, the data did not have the sufficient level of detail to be able to identify the rent costs.

### NET INCOME CHANGES

To estimate the expected changes in the net income as a result of the CFPB's Proposed Rules, we used the store level P&L statements for 2013 for all the stores in our sample that originated payday loans. Some of the participants already allocated corporate expenses to the store level. For those that did not and provided the information needed to do so, we allocated corporate expenses at the store level proportionally, based on each store's revenue share.

$$\text{The Net Income}_{\text{actual}} = (\text{Payday Loan Revenues}_{\text{actual}} + \text{Other Revenues}_{\text{actual}}) - \text{Costs}_{\text{actual}}$$

For each store, we estimated the expected revenues under the alternative requirements by applying the state level payday loan revenues change (estimated based on the Loan Data) to the actual payday loan revenues. If the state level change in the payday loan revenues was estimated based on fewer than 100 borrowers, we used the estimated change in revenues from all states combined.

$$\text{Payday Loan Revenues}_{\text{CFPB}} = \text{Payday Loan Revenues}_{\text{actual}} \times (1 - \%\Delta \text{ Payday Loan Revenues})$$

For each store and cost type, the change in costs under the alternative requirements was estimated as the cost multiplier times the change in payday loan revenues.

$$\text{Costs}_{\text{CFPB}} = \text{Costs}_{\text{actual}} - (\text{Payday Loan Revenues}_{\text{actual}} - \text{Payday Loan Revenues}_{\text{CFPB}}) \times \text{Cost Multiplier}$$

### RESULTS OF THE ESTIMATED NET INCOME CHANGES

The average per store net income was estimated to decrease from a profit of about $37 thousand to a loss of $28 thousand (e.g. a decrease of about $66 thousand). Of the approximately 200 stores with payday lending revenues in our analysis, 84% of the stores are expected to experience net losses whereas only about 24% of the stores experienced a loss in the absence of the proposed rule. While 16% of the stores we analyzed are estimated to retain positive net profits, their net profits are estimated to decrease by 68% on average.

Five out of the six lenders analyzed would have experienced overall losses. For the sixth lender we estimated a positive net income under the alternative requirements, but there are circumstances surrounding this lender that warrant additional discussion. Based on the lender's financial statements, we estimated a cost structure that is highly variable (e.g. very low fixed costs). We found that a $1 increase (decrease) in payday loan revenues is accompanied by a $0.86 increase (decrease) in its costs – the highest variable rate among the six lenders analyzed. As we have noted elsewhere in this report, this approach likely overestimates for all six lenders the latitude that they would have to reduce costs when revenues decrease to the degree we have estimated here. The conservative nature of this approach is most apparent with respect to this lender.

The negative impact on the small lenders we reported here is likely to be understated for several reasons, including but not limited to:

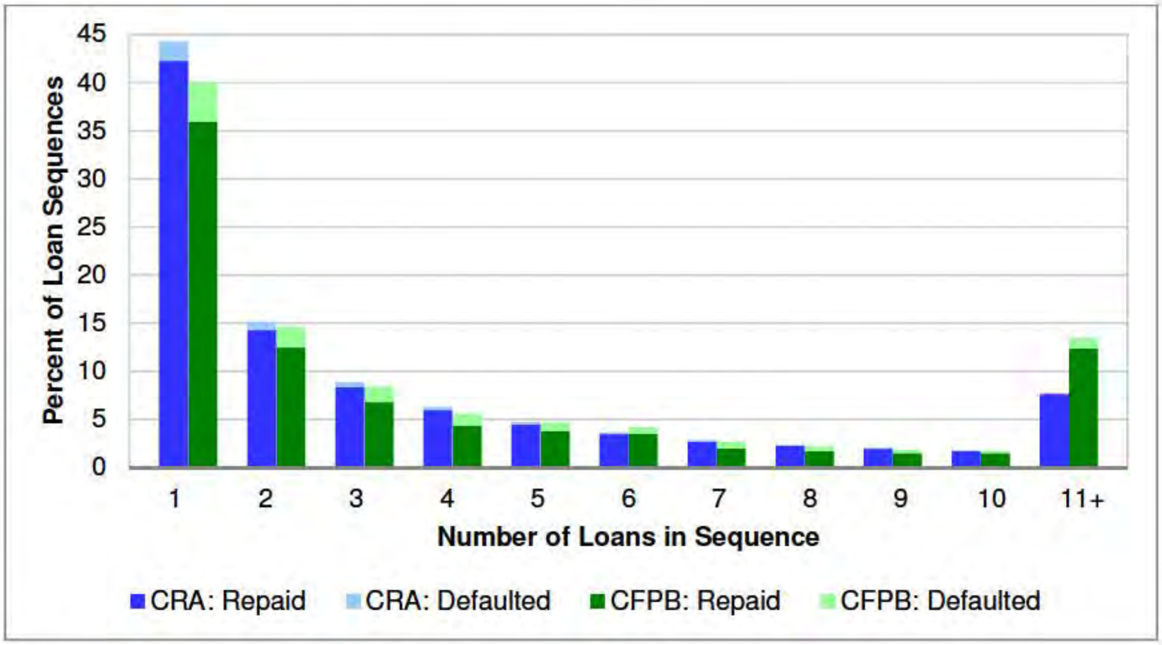
1. The Proposed Rules significantly limit a consumer's ability to roll over payday loans, and this may dampen demand to originate payday loans and/or increase

default rates. We have not attempted to quantify the degree to which either of these may occur.

2. We have made conservative assumptions about consumers' appetite to initiate a payday loan for amounts and durations that would be dictated by the CFPB's Proposed Rules to be small/shorter than the amounts and durations for which they actually initiated a payday loan.
3. We did not include the expected increase in costs due to the new compliance requirements. The CFPB's Proposed Rules also include collection restrictions which may increase the costs of collection activities and could also affect the default rates.
4. We have assumed that lenders will be able to continue to eliminate costs even as revenues fall precipitously. As discussed above, lenders' ability to reduce costs may decrease as certain costs categories approach natural floors, below which they cannot be further reduced.
5. The six small lenders that we analyzed are likely larger than many small payday lenders. As such, the lenders analyzed here may have greater economies of scale and more capacity to adjust their cost structures, relative to other small payday lenders. Thus, some small payday lenders may experience larger decreases in profitability.

## APPENDICES

## APPENDIX A. LOAN LEVEL DATA: CRA VS. CFPB




**Notes**

[1]: This graph compares the distribution of loan sequences in the CRA Loan Data to those reported in the CFPB's data reported in its 3/2014 paper (see footnote 9).

[2]: For each lender, one year of data were included, based on the loan date. For most lenders, this represented 2012 loans.

[3]: In this graph only, a loan sequence and a loan sequence in default are defined as the CFPB does in Sections 3.1 and 3.2 of its 3/2014 paper (see footnote 9). If any of the loans in a sequence is in default, the entire sequence if defined in default. In the rest of the study, a sequence is defined as in the CFPB's Proposed Rules.

[4]: A loan sequence is given by the loans of a borrower issued by a given lender. Potential loans of the same borrower taken from different lenders are identified as taken by different borrowers.

[5]: Loan sequences that were originated in the first month of the 12-month data for each lender were not included.

[6]: A borrower can have more than one sequence.

[7]: A loan x2 originated on or after an unpaid loan x1 is part of the same sequence as x1. A loan originated after x2 is allowed to be part of a different sequence than that of x1.

## APPENDIX B. ALTERNATIVE REQUIREMENTS EXAMPLE

| Policy Period | Loan Date | Due Date | Date Paid | Original Principal | Principal | Original Fees | Fees | Sequence Number | Number in a Sequence | Loan Granted | Not Granted Reasons |
|---|---|---|---|---|---|---|---|---|---|---|---|
| No | 1/20/2012 | 2/3/2012 | 2/3/2012 | $400.00 | $400.00 | $87.53 | $87.53 | 1 | 1 | Yes | . |
| No | 4/19/2012 | 5/11/2012 | 5/11/2012 | $500.00 | $500.00 | $128.01 | $128.01 | 2 | 1 | Yes | . |
| No | 5/11/2012 | 6/8/2012 | 6/8/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 2 | Yes | . |
| No | 6/8/2012 | 7/6/2012 | 7/6/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 3 | Yes | . |
| No | 7/6/2012 | 8/3/2012 | 8/3/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 4 | Yes | . |
| No | 8/3/2012 | 8/31/2012 | 8/31/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 5 | Yes | . |
| No | 8/31/2012 | 9/28/2012 | 9/28/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 6 | Yes | . |
| No | 9/29/2012 | 10/26/2012 | 10/26/2012 | $500.00 | $500.00 | $128.69 | $128.69 | 2 | 7 | Yes | . |
| No | 10/26/2012 | 11/23/2012 | 11/23/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 8 | Yes | . |
| No | 11/23/2012 | 12/21/2012 | 12/21/2012 | $500.00 | $500.00 | $128.83 | $128.83 | 2 | 9 | Yes | . |
| No | 12/22/2012 | 1/18/2013 | 1/18/2013 | $500.00 | $500.00 | $128.69 | $128.69 | 2 | 10 | Yes | . |
| Yes | 1/21/2013 | 2/15/2013 | 2/15/2013 | $500.00 | $500.00 | $128.42 | $128.42 | . | . | No | 4th or more ln in the same seq \| NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 2/22/2013 | 3/22/2013 | 3/22/2013 | $500.00 | $500.00 | $128.83 | $128.83 | . | . | No | 4th or more ln in the same seq \| NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 3/29/2013 | 4/26/2013 | 4/26/2013 | $350.00 | $350.00 | $90.18 | $90.18 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 4/27/2013 | 5/24/2013 | 5/24/2013 | $350.00 | $350.00 | $90.08 | $90.08 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 4/29/2013 | 5/24/2013 | 5/24/2013 | $600.00 | $500.00 | $154.10 | $128.42 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 5/29/2013 | 6/21/2013 | 6/21/2013 | $600.00 | $500.00 | $153.78 | $128.15 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |

| Policy Period | Loan Date | Due Date | Date Paid | Original Principal | Principal | Original Fees | Fees | Sequence Number | Number in a Sequence | Loan Granted | Not Granted Reasons |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Yes | 6/21/2013 | 7/19/2013 | 7/19/2013 | $600.00 | $500.00 | $154.60 | $128.83 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 7/19/2013 | 8/16/2013 | 8/16/2013 | $600.00 | $500.00 | $154.60 | $128.83 | . | . | No | NbrLnsPr12mo > 6 \| DaysInDebtPr12mo > 90 |
| Yes | 8/28/2013 | 9/25/2013 | 9/25/2013 | $600.00 | $500.00 | $154.60 | $128.83 | . | . | No | DaysInDebtPr12mo > 90 |
| Yes | 9/28/2013 | 10/25/2013 | 10/25/2013 | $600.00 | $500.00 | $154.43 | $128.69 | . | . | No | DaysInDebtPr12mo > 90 |
| Yes | 10/28/2013 | 11/22/2013 | 11/22/2013 | $600.00 | $500.00 | $154.10 | $128.42 | 3 | 1 | Yes | . |
| Yes | 11/22/2013 | 12/20/2013 | 12/20/2013 | $600.00 | $333.33 | $154.60 | $85.89 | 3 | 2 | Yes | . |
| Yes | 12/21/2013 | 1/17/2014 | 1/17/2014 | $775.00 | $166.67 | $199.48 | $42.90 | 3 | 3 | Yes | . |

**Notes**

[1]: "4th or more ln in the same seq" = If granted, the loan would have been the $4^{th}$ or more loan in the same sequence

[2]: "NbrLnsPr12mo > 6" = If granted, there would be more than six loans in the last 12 months.

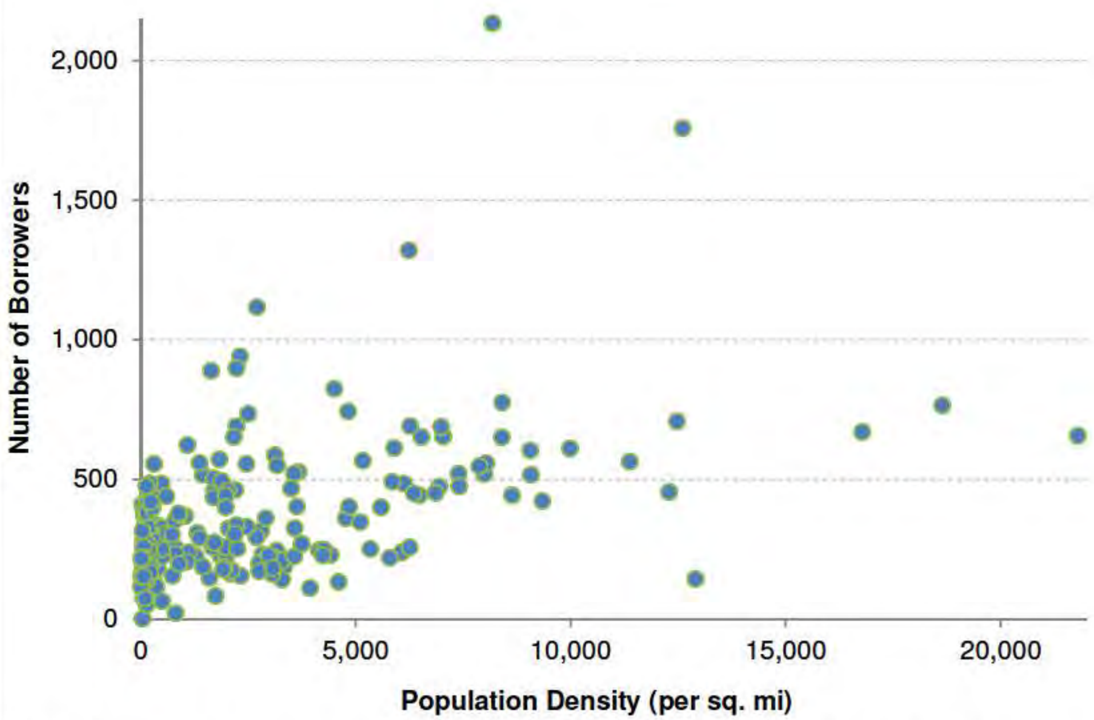
[3]: "DaysInDebtPr12mo > 90" = If granted, the borrowers would be more than 90 days in debt in the last 12 months.

[4]: For this borrower, the first loan date in the data we received from his lender + 365 = 12/30/2012

[5]: The actual fees during the policy period were $1,871.80. We estimated that the alternative requirements fees during the policy period would have been $257.21.

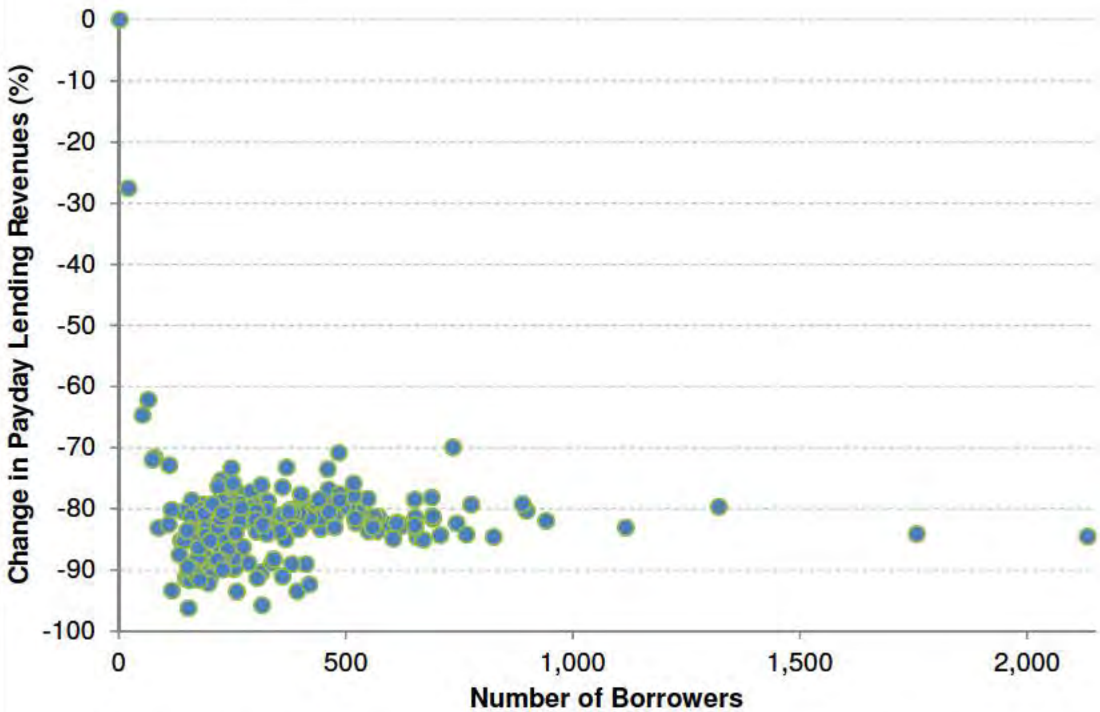
## APPENDIX C. PAYDAY LENDING REVENUE VS. POPULATION DENSITY

**Chart 1. Store Size vs. Store Population Density**



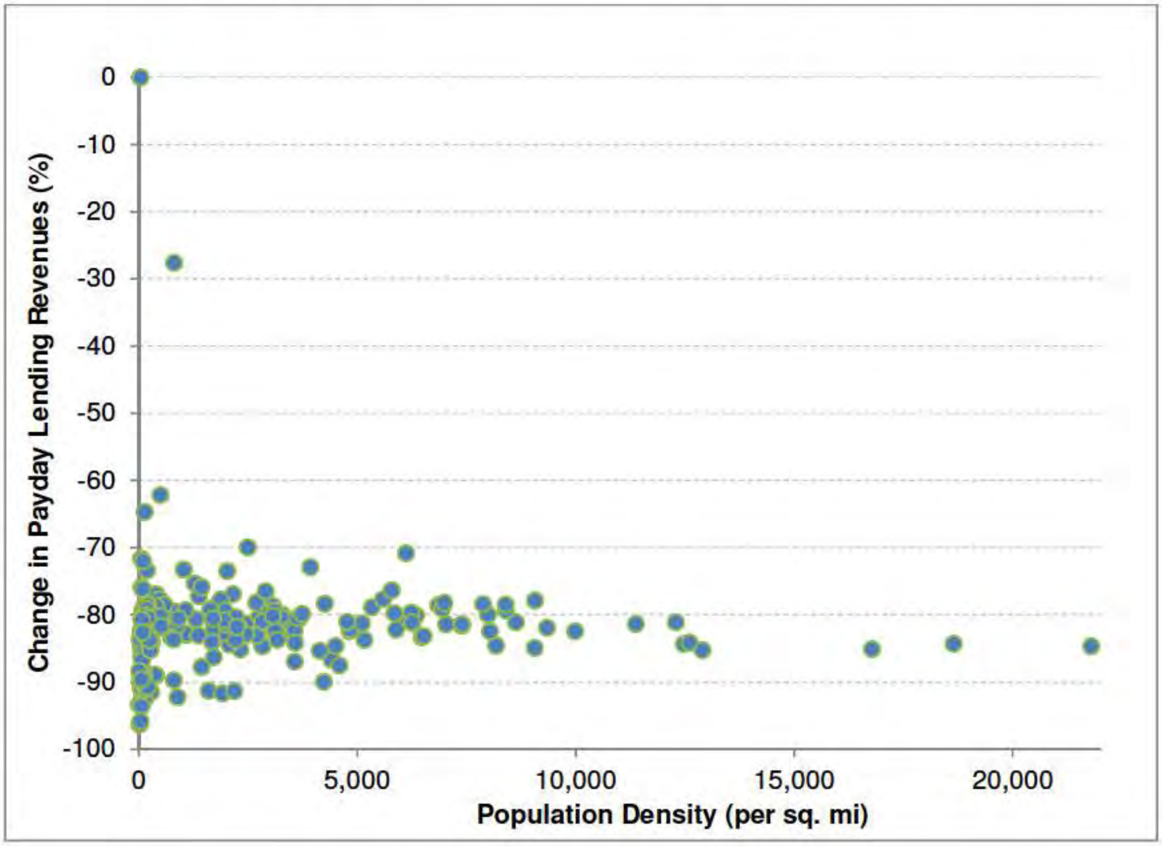

[1]: The number of borrowers is the average number of borrowers per one year of data.

**Chart 2. Change in Payday Lending Revenues vs. Store Size**




[1]: The number of borrowers is the average number of borrowers per one year of data.

**Chart 3. Change in Payday Lending Revenues vs. Store Population Density**



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In addition to the items included above, Mr. Gwaltney included the following items in his written feedback to the Panel (as noted in his “Table of Exhibits”):

1. Robert Shapiro, The Consumer and Social Welfare Benefits and Costs of Payday Loans: A Review of the Evidence, Sonecon (March 2011).
2. Adair Morse, Payday Lenders: Heroes or Villains?, Journal of Financial Economics 102, 28-44 (2011).
3. Donald P. Morgan et al, How Payday Credit Access Affects Overdrafts and Other Outcomes, Journal of Money, Credit and Banking 44:2-3, 519-531 (March-April 2012).
4. Jonathan Zinman, Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap, Journal of Banking and Finance 34, 546-556 (2009).
5. Chintal A. Desai and Gregory Elliehausen, The Effect of State Legislation Restricting Payday Lending on Consumer Credit Delinquencies: An Investigation of the Debt Trap Hypothesis (2014).
6. Neil Bhutta, Payday Loans and Consumer Financial Health, Journal of Banking and Finance 47: 1 (2014).
7. Neil Bhutta, et al, Payday Loan Choices and Consequences, Journal of Money, Credit and Banking 47:2-3, 223-250 (March-April 2015).
8. Bart J. Wilson, et al, An Experimental Analysis of the Demand for Payday, The B.E. Journal of Economic Analysis & Policy 10:1 (April 28, 2010).
9. Jennifer Priestley, Payday Loan Rollovers and Consumer Welfare (December 5, 2014).
10. Ronald J. Mann, Assessing the Optimism of Payday Loan Borrowers Columbia Law and Economics Working Paper No. 443 (March 12, 2013).

May 13, 2015

*Via email*: cfpb_payday_sbrefa@cfpb.gov

Small Business Advisory Review Panel Members
On Potential Rulemakings for Payday, Vehicle, Title,
And Similar Loans
c/o Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552-0003

Re: Written Comments of Small Entity Representative Paul M. Hoffer

Dear Members of the Small Business Advisory Review Panel:

Thank you for the opportunity to participate as a Small Entity Representative ("SER") in the Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans ("SBAR Panel"). I am an owner and Chief Financial Officer of Xpress Cash Management, LLC, headquartered in Wisconsin. Xpress offers payday loans in Idaho, Michigan and Utah, single payment short term title loans in Idaho and Utah, installment style title loans in Arizona, and unsecured installment loans in New Mexico and Wisconsin. Xpress is a small business, with $9.2 million in annual revenue in 2014 and 136 employees; it has been in business 15 years.

While I appreciate the effort the CFPB has made in its Outline of Proposals Under Consideration and Alternatives Considered ("Proposal") and the Bureau's willingness to share it with the SERs, I am very concerned about a number of aspects of the Proposal as well as with many missing elements that undermine my and other SERs' ability to offer meaningful feedback. As discussed below in more detail, my concerns include the Proposal's lack of data or analysis of critically important matters, such as its conclusory assumption of harm to consumers, its reliance on large entity rather than small business data, its failure to consider impacts on consumers – and particularly those in rural and underserved communities – resulting from the large-scale, forced removal of these products from the marketplace, and the absence of consideration of existing state laws and regulations, including both conflicts between state laws and the CFPB's Proposal and "lessons learned" from unintended consequences of certain state programs.

These issues are more than just details to be added when the CFPB moves to propose a rule. The absence of these essential components from the Proposal the Bureau has presented to the SERs undercuts their ability to offer the type of feedback that it is my understanding the Small Business Regulatory Enforcement Fairness Act ("SBREFA") was enacted to bring into the rulemaking process. Because of these critical missing pieces, I urge the CFPB to reconsider its Proposal in light of the many concerns that have been raised, revise its approach, and resubmit it to the SERs for a more informed SBREFA review.

**Specific Concerns with the Proposal as Presented to the SERs**

Assumption of harm rather than data and analysis. The Proposal contains no data or analysis of the harm ("substantial injury," to use the language of the Dodd-Frank Act) it assumes is caused by the covered products. Instead of data, the Proposal relies on assumptions and conclusions to support severe, far-reaching measures that it projects will result in small business revenue reductions of 59-84%. A just-published Clarity data run, using the CFPB's approach with a much larger data set, shows revenue reductions of at least 70%, even under optimistic assumptions, according to an analysis published by former CFPB Assistant Director Rick Hackett. (See https://www.nonprime101.com/blog/clarity-analysis-confirms-cfpb-simulation/, and embedded link to Clarity data.) As discussed below, by either measure this magnitude of lost revenues understates the true impact that small businesses will experience, but even this estimate means that essentially no small businesses will continue to be able to offer these products. In response to repeated requests during the CFPB's pre-meeting SER calls for the basis of its conclusions of harm, Bureau spokesmen variously refused to answer – saying this information would be provided in the proposed rule – or spoke generally of the Bureau's "White Paper," "Data Point," or the "Pew Report." From my examination of these documents, it appears that the White Paper and Data Point rely on the Pew Report, so really the basis for the Proposal is that report. I am aware of convincing criticism of the Pew Report (see attached "CFSA Response to PEW Research on Payday Loans," Attachment 1), and question the Bureau's decision to base its Proposal on this research. In any event, I object to the Bureau's expectation that the SERs should provide comment on a Proposal that does not set forth transparently and objectively its detailed support for the consumer harm it plans to address through the excessively harsh measures in the current Proposal.

At the same time that it fails to lay out the basis of its conclusion of consumer harm, the Proposal adds insult to injury by avoiding any analysis of the adverse impacts that consumers will have to deal with if these products are not available to them. Failure to examine, or even acknowledge, this important factor seems unbalanced and unfair. Even the Bureau's simulations make clear that few small lenders – and presumably only a minority of large lenders, on whose data the projections were based – will survive implementation of the Proposal. The Proposal euphemistically refers to this result as "substantial consolidation in the short-term payday and vehicle title lending market" (Proposal, p. 45), but what it really means is widespread closures and removal of these products from the marketplace. Many studies have examined the negative results for consumers of eliminating legitimate, state-regulated short-term credit options and forcing those who need loans to seek less desirable alternatives. (For example, Jonathan Zinman, "Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap," see Attachment 2.) At a minimum, the Bureau owes it to the SERs to include a careful analysis of these consequences in soliciting our input on the Proposal.

Inappropriate use of large-entity data to estimate impacts on small businesses. As noted above, the Proposal uses data obtained from large storefront lenders in the supervisory process (Proposal, p. 40) to project impacts on small businesses. While these estimates show very severe effects, the Bureau acknowledges that they understate the likely outcomes in terms of small lender survival. My company was one of six small businesses that contributed data to a study undertaken by Charles River Associates (CRA) to develop a more targeted analysis, based on the financial experience of 234 stores in 15 states over a two-year period. The CRA study, which will be submitted by another SER whose company also took part in the study, shows that overall the small business stores would see an 82% (ranging from 70 to 92%) revenue drop under the most optimistic scenario. A former CFPB regulator notes in a recent publication that the Bureau typically estimates storefront payday loan return on investment at 15%, and goes on to question whether any retail business with fixed costs could absorb a revenue reduction in ranges above 70% (Rick Hackett, "Clarity Analysis Confirms CFPB Simulation," https://www.nonprime101.com/blog/clarity-analysis-confirms-cfpb-simulation/). The CRA analysis, based on actual small business data, finds losses that would be unsustainable for continued business operations.

Lack of consideration of disproportionate impacts on rural and underserved communities. The Dodd-Frank Act requires the Bureau to consider the impact of its actions on rural and underserved communities, but the Proposal includes no data or analysis of this issue. Many SERs raised this concern at the April 29 meeting, and it applies to my company's customers as well. By my calculation, 50% of our 60 stores are in rural areas, and the lost revenue impact that will result from the Proposal will fall disproportionately on these locations (assuming any of our stores survive at all). No other products are positioned to fill the gap that will result, and the consequences will be greatly reduced access to credit in rural and underserved communities.

Conflicts with state law. As noted above, our company currently operates in six states and offers a variety of products in these states. This footprint requires me to understand and ensure compliance with multiple laws and regulations, and their evolving requirements. I was surprised and disappointed that the Bureau did not examine the existing laws in the many states that regulate these products before sending the Proposal to the SERs for feedback. I believe it was premature to convene this SBREFA review before conducting this analysis, which in my view would have produced a much more informed and realistic approach for the SERs to consider.

If the Bureau had analyzed state laws, it would have discovered that in some states the Proposal will conflict with state requirements, creating an impossible situation for lenders who must operate under state law. In Michigan, for instance, the state's deferred presentment service transaction law includes specific rules on when and how an extended repayment plan ("EPP") "must be" or "can be" offered to a borrower. Michigan requires that an EPP be offered when a borrower has had eight transactions, from all lenders, within the last twelve rolling months. The Proposal would require an EPP after only three transactions, contrary to the Michigan requirements. In addition, Michigan specifies that the EPP be structured as three equal payments due on the borrower's next three pay dates and sets an EPP fee of $16. The Proposal, by contrast, would require the EPP to be in four payments and bars any fee. As another example, Michigan does not allow lenders to offer installment loans. The Proposal suggests that payday lenders that will be unable to operate under the Proposal's requirements could survive by diversifying, presumably into installment loan lending (Proposal, page 45), but this will be impossible under Michigan law. These facts raise questions in my mind: How would a lender comply with these conflicting requirements? Would the CFPB preempt Michigan's requirements? What is the impact on the Proposal's cost impact assessment if its survival plan for payday lenders is not possible under Michigan law? More broadly, has the Bureau considered the Michigan approach as potentially meeting the consumer protection concerns it is seeking to address and a better alternative that the Proposal?

I am aware of similar concerns regarding conflicts between Colorado's requirements and the Proposal, as outlined in the attached letter from Chris Rockvam, president of the Colorado Financial Service Centers Association (attachment 3). Mr. Rockvam points out that the Proposal's provisions for longer-term loans under the alternative payment-to-income ("PTI") approach conflict in two ways with Colorado's requirements:

> By limiting the number of loans that a consumer can initiate within a rolling twelve month period of time to two loans, it would not only have a negative effect on the lenders, but ultimately the consumers. Under current Colorado law, all fees and interest are earned on a pro-rata method, except for a monthly maintenance fee that accrues monthly beginning at the end of the second month until the loan is paid in full. Therefore, if the customer pays off their loan before the end of the second month, they pay considerably less than if the loan went the full term. For example, if a person takes out a $500 loan and then pays off the account in fourteen days after initiating the loan the total finance charge is $10.06 on average. However, if that same $500 loan goes the entire 6 month term the total finance charge will be $288.69. By limiting the number of loans an individual can initiate in a year it may encourage consumers to keep their loans out for a longer period of time because they are aware that they will only be able to use the service twice in a given year. Colorado law allows the customer to make their own financial decisions and utilize our loan services whenever it is needed. Under the proposed regulations by the Bureau, if a person were to take out a loan in January to cover a medical expense and payoff the loan within a month, then take out a loan in June to pay for rent and payoff the loan within two months, and then attempt to take out a loan in November for new snow tires so that they can get to work, we as the lender would not be able to help them in their time of need for that third loan request. As small business owners we would be harmed because we would have to turn the customer away and instruct the consumer that they won't be able to take out another loan since they already had two loans in the last twelve calendar months.
>
> The illustration above is one example in which he CFPB proposal would not easily co-exist with Colorado law and prompts many unanswered questions. For instance, under the "Maximum PTI" loan section, the CFPB state that loans must have a "duration

between 45 days and six months." However, here in Colorado the minimum loan term is six months. The majority of our loans range between six and seven months so that payments coincide with the consumer's paydays. Would the CFPB proposal mean that Colorado lenders can only issue loans for exactly six calendar months or can loan terms be six months and 15 days, or six months and 21 days etc.? There will once again be inherent problems with limited loan terms to exactly six months because it will cause payments to fall on arbitrary dates that don't coincide with the consumer's paydays. This will cause an increase in defaults and additional charges to accrue for the customers due to insufficient funds fees from the lender and their banking institution. [Attachment 3, pages 2-3.]

Once again, I am concerned that, before soliciting SER feedback, the Bureau did not carefully analyze existing state laws to identify situations where conflicts would arise with the Proposal and provide a transparent explanation of how these inconsistent requirements would be reconciled. It is not enough, as the Bureau has typically responded to this issue, to say that the Proposal would merely "set a floor" and that states can impose further requirements. Where a lender cannot satisfy both sets of regulatory demands, the Bureau cannot simply disregard the problem.

<u>"Lessons learned" from state law programs</u>. Previously adopted state programs have demonstrated that many businesses, especially small lenders, will go under even with approaches less onerous than the Proposal. Our – and others' – experience with Washington State's law, and information I have reviewed on Colorado's requirements, make clear that well-intentioned measures can have devastating effects on small businesses and drastically reduce access to credit to consumers.

- *Washington State*. Under Washington's law, beginning on January 1, 2010, borrowers were limited to eight loans in any twelve-month period from all lenders. The limit is enforced by an external electronic database to which all licensees are required to report all small loans. As a result of this regulation, total locations have plunged from 603 in 2009 to 174 in 2013. (*Washington State Department of Financial Institutions 2013 Payday Lending Report*.) The number of small loans has dropped form 3,244,024 loans (representing $1,336,028,845) in 2009 to 871,801 loans (representing $331,430,078) in 2013. My company was forced to close all five of our stores in Washington, four immediately and the fifth after a sustained effort to keep it open failed. A fellow small business lender, Kevin McCarthy, has provided a letter that lays out the impacts of the Washington law on his company (Attachment 4).

> Going into January of 2010, we knew there was going to be [a] scramble for customers as the database was put into effect. We also knew there would be heavy losses before the dust settled. It was far worse than we had modeled. We expected a 30% loss in revenue but saw over 60% immediately. I scrambled to find ways to keep the company alive, closing 10 stores almost immediately, hoping that the customers form those

locations would move to those that I kept open. It didn't work. Within 4 months, my company that I had spent my adult life creating, where I had invested all of my assets, was suddenly gone and in receivership. My company that showed retained earnings of nearly $6 million on December 31, 2009 had been completely liquidated and I was left with nothing.

Even more tragic were my employees, many of whom had spent 10 plus years working with me, were out of work in the height of the recession and for the most part were unable to find anything close to the employment opportunity they had while working with me. It was amazing how many of those employees were still receiving unemployment benefits 2 years later! I know of several old employees who lost their homes, having to move in with relatives as a result of unemployment. It was and is tragic in so many ways.

Additionally, there were the thousands of customers impacted by the new legislation. We had hundreds of customers go into default the first month of 2010. The database locked them out of the system. They couldn't get the money they needed and so they defaulted. There is no question their credit scores were impacted as they chose to give up on repaying their outstanding loans after seeing that we were out of business. Our state has also seen a huge increase in the number of customer complaints about Internet lenders since the legislation went into effect. These complaints are not coming from the licensed Internet lenders; they are coming from the off-shore lenders who don't follow any of the laws in our state or country with respect to payday loans. The consumers can't differentiate between the good guys and bad and end up getting in very desperate situations from these lenders. The Department of Financial Institutions (DFI) does not have the ability to stop the offshore lenders and advises consumers not to repay loans from unlicensed lenders. This is of no help to someone who has had their account hit every payday for months and months, without having the ability to pay back the principal (the loan is setup that way, even if they have the money to repay, they can't). The damage continues unless they close their bank account and DFI has no way of closing these bad guys down. [Attachment 4, page 2.]

Mr. McCarthy and I are not alone in our concerns about the negative lessons learned from the Washington legislation. Even the Chairman of Washington State's House Business and Financial Services Committee, State Representative Steve Kirby, who facilitated the negotiations on that legislation, has now come forward to question its wisdom, saying "unfortunately, we ... passed an arbitrary eight-loan cap on the number of loans to a consumer annually which I believe has proven to be too severe, and leaves consumers with no place to go once they reach the cap, other than the unregulated internet market." Washington State is working on addressing this mistake, and with the state's experience in mind Chairman Kirby has registered "strong opposition" to the CFPB's proposals, pointing out the conflict between the state law's effort to balance consumer protection and access to credit and the Bureau's approach, which he believes will "do great harm."

In a May 12, 2015 letter to Director Cordray, Chairman Kirby directly states, "your proposals seem to ignore the hard work we have undertaken to achieve the balance of consumer protections and consumer choice in Washington and frankly, appear to me to be designed to do away with the industry altogether." While I may not agree with Washington State's existing or revised approaches, the point remains that even a supporter of one of the harshest state initiatives in the country is publicly raising concerns about unintended adverse consequences to consumers and asking the Bureau to "reconsider the proposals you rolled out last month." (See Attachment 5.) A separate letter to Director Cordray from Chairman Kirby's Senate counterpart, Senator Don Benton, Chair of the Washington State Senate Financial Institutions and Insurance Committee, expresses the same objections and was forwarded to me by Senator Benton for inclusion with my comments. (See Attachment 6.)

- *Colorado*. Colorado's new law took effect in 2010, and essentially eliminated the payday loan product, forcing consumers to use instead a state-mandated installment loan product. The attached letter from Chris Rockvam, President of the Colorado Financial Service Centers Association and a small business lender, describes the impacts of the Colorado law:

> The new six month installment loan product became law in October 2010 and it had a profound effect on the number of locations offering loans within the state of Colorado. As per the Deferred Deposit/Payday Lenders Annual Report issued by the Colorado Attorney General's Office for the 2010 calendar year, the number of licensed locations was 410. The most recent report issued by the Attorney General's office for 2013 states that the number of locations has shrunk to 260. This represents a 36.5% decrease in the number of stores within the state of Colorado that were forced to close as a direct result of the change in payday lending laws that were enacted in 2010. Small business owners like our family have been hit the hardest by this change in law since 2010. My family was forced to close two of our five locations and layoff 40% of our work force when the new law took effect in October 2010.
>
> Perhaps the most telling sign that small business owners were impacted by the new law can be referenced in the Annual Report issued by the Colorado Attorney General's office. As of 2010 the report indicated that there were 65 individual lenders, as of 2013 that number was reduced to 39. This represents a 40% decrease in the number of individual owners within the state of Colorado. While a few large national companies closed

all their location[s] and left the state after 2010, the vast majority of the 26 lenders that are no longer in business were small business owners. [Attachment 3, page 2.]

One size does not fit all. It is clear to me that the multiple products the Proposal plans to cover are very different, and that these differences only multiply once the impact of varying state laws is taken into account. The Proposal includes insufficient analysis of payday loan products, as discussed above, but when it comes to title and installment products, even less has been done. Products that the Proposal covers, or that were represented among the SERs, such as credit union and community bank loans, are very different from products offered by nondepository institutions, and the business models for these differing entities vary significantly. For example, credit unions are non-profit entities, and it would make no sense for a for-profit business to operate under rules designed for a non-profit lender.

In my view, the Proposal provides an inadequate basis for optimal SER feedback because of its failure to analyze the issues using a product-by-product, state-by-state approach. The Bureau's decision to proceed this way set the stage for a premature SBREFA review.

Alternatives that should be considered. SBREFA requires the CFPB to consider alternatives that would satisfy its regulatory objectives but impose less burden and cost. Based on my experience, I urge the Bureau to consider Michigan's and Utah's approaches.

- *Michigan*. Michigan's law was sponsored by an inner-city African American who sought a balance between protecting the jobs of constituents and providing for a tightly structured, highly regulated industry. The primary goal of this legislation was to prevent a customer from having multiple loans. The law requires ability to repay underwriting using a real-time database. Borrowers are limited to a maximum $1200 in outstanding loans but cannot have more than one loan with any single licensee. Rollovers are not permitted. Borrowers are eligible for an EPP after eight loans. While this new law was tough, and resulted in some lenders' exit from the marketplace, I believe it strikes a workable balance between consumer protection and lender survival ensuring consumer access to credit.

- *Utah*. The major change to Utah's law in 2014 was the mandatory offering of an EPP after the customer has had a loan for 70 days. If the borrower refuses the EPP, he or she must pay off the loan and wait one business day before taking out a new one. Lenders must determine ability to repay by income verification or credit bureau report, and the borrower must sign an affidavit stating he or she has the ability to repay. Rollovers must be requested by the borrower. The law also requires that the lender must accept a partial payment on the original sum and can renew with a smaller balance for the subsequent loan. The EPP must include four payments over at least 60 days, with a $20 default fee. As was the case in Michigan, this new law was not workable for some lenders, but for most companies, even small businesses like mine, it provides a path forward that allows for consumer protection and survival of loan products that our customers need and want.

**Conclusion**

I appreciate the chance to serve as a SER in this important Small Business Advisory Review proceeding. These written comments contain my expanded views, in addition to the oral comments I made at the April 29 meeting, with supporting documentation. I am very concerned that the Proposal the SERs received was not ready for our review and feedback. Many critical elements were missing, as discussed above. I am convinced that if the CFPB were to take into account the recommendations for additional steps that are needed and resubmit a revised Proposal to the SERs, it would receive higher quality feedback on the impacts on small businesses and ways to achieve the Bureau's objectives while creating less burden and cost. Those improvements would also benefit the consumers the Bureau is committed to helping, and in particular, ensure that consumers, especially those in rural and underserved communities, have access to credit. As matters stand currently, without substantial revisions, a Proposal that was intended to help consumers will hurt them instead.

Sincerely,

Paul Hoffer

Paul M. Hoffer

# CFSA Response to PEW Research on Payday Loans

*October 2012*

A report from the Pew Charitable Trusts' Safe Small-Dollar Loans Research Project, "Payday Lending in America: Who Borrows, Where They Borrow, and Why," in July 2012 is the first in a planned series exploring the small-dollar, short-term lending marketplace and consumers' experiences. While CFSA applauds Pew's efforts to promote a greater dialogue about consumers' credit needs and the role of non-bank lenders in providing payday advances, we believe there are several key areas of Pew's research that are inconsistent with other industry research and not representative of CFSA members' customers and their experiences with payday loans.

**Methodology**

While Pew states that their research is based on "demographic data derived from 33,576 responses," it is important to point out that findings related to payday loans are derived from only 451 actual Pew interviews or from prior non-Pew research, much of it from 2007. Therefore, it is important for readers of this research to understand **the true sample size is 451 responses**.

Further, the 451 Pew interviews include research on consumers who took out a payday loan within the last five years. Because Pew chose to include consumers who have taken a payday loan up to five years prior, the research is largely based on timeworn memories and in many instances does not reflect events related to the timeframe that the consumers took the payday loan (i.e. renters vs. homeowners, income, age, employment status, states where the loan was made, etc.).

In addition, it is statistically invalid and inappropriate to conclude that responses gathered from a *phone survey* are indicative of individuals' actual financial behavior and true data. Since the report was entirely based on these telephone conversations, there were no steps taken to ensure the validity of respondents' answers.

Finally, Pew's attempt to analyze state-by-state usage is inadequate given that **Pew's average per-state sample is nine respondents**, which is much too small to be statistically valid.

**Key Findings**

1. **Who Uses Payday Loans?**

   Pew's survey led it to conclude that five groups have higher odds of having used a payday loan: those without a four-year college degree; home renters; African Americans; those earning below $40,000 annually; and those who are separated or divorced.

   However, a study titled, *An analysis of Consumers' Use of Payday Loans*, by Gregory Elliehausen of George Washington University, describes the demographic characteristics of payday loan customers somewhat differently.

   In his analysis of income levels, Elliehausen found "**A large percentage of payday loan customers had higher incomes**. Thirty-nine percent of payday loan customers had incomes of $40,000 or more, about a quarter had incomes of $50,000 or more, and 8.9 percent had incomes of $75,000 or more."

Additionally, he wrote "…It is notable that the higher income customers (income ≥ $50,000) are a larger share of payday loan customers than lower income (income < $15,000) customers."[1]

He also concluded that **payday loan customers have achieved a higher education level than the national average**, according to data from the U.S. Census. In fact, 90 percent of customers have a high school diploma or better, with 54 percent having some college or a degree.[2]

And while Pew correctly noted that a disproportionate number of payday borrowers, relative to the U.S. population, are African American, they failed to control for financial variables such as net worth, debt or income, and whether the borrower had been turned down for credit in the past five years. Had Pew done so, there would have been no significant correlation with race.

## 2. Why do Borrowers Use Payday Loans?

Most customers use payday advances responsibly to help them cover unexpected costs and manage periodic financial difficulties. According to industry surveys conducted by CFSA member companies, the typical customer uses our product eight times over the course of a year, and they use the service for a relatively short period of time – weeks or months, not years.

The Pew study reports that most borrowers use payday loans to cover ordinary living expenses, not unexpected emergencies. However, our members' customers experience various types of financial shortfalls, and they may choose a payday loan to cover an emergency expense or manage recurring bills in the wake of a temporary change in circumstances. In our current economy and constricted credit market, **it is critical that consumers have the credit options they need to deal with these challenges**.

Pew also asserts "the payday lending market does not function as advertised," and that product usage is continuous; yet, Pew provides no evidence to support that argument, nor does any exist. With respect to length of use, Pew's study fails to address whether consumers really need a longer-term product but choose payday because there simply is no longer-term credit option available. And, importantly, Pew's study does not provide evidence that consumers who use the product longer experience a welfare detriment relative to shorter-term users. Research has revealed that nearly all payday loan customers have a clear understanding of the charges and terms associated with their loan before taking it out[3].

In examining why borrowers choose payday loans, the Pew study also fails to consider some of Pew's own research on checking accounts and overdraft protection. For instance, reports in 2011 and 2012 from the Pew Health Group found that consumers are not adequately informed of their bank's overdraft practices, including costs, due in part to banks' opaque disclosure agreements. Pew also found banks' overdraft fees to be disproportionately high compared to the median overdraft amount, and that, within the past year, over half of respondents overdrafted two to five times, and 14 percent overdrafted six to 10 times.

In comparison, consumers bounce checks and use overdraft protection at higher rates than they use payday loans. By not examining payday lending within the context of other popular short-term credit options such as overdraft fees, Pew paints an incomplete picture of the consumer financial services landscape.

[1] Elliehausen
[2] Elliehausen
[3] Elliehausen

### 3. What Would Borrowers Do Without Payday Loans?

Pew's research indicates that 81 percent of borrowers say they would "cut back on expenses" if payday loans were not available. It also indicates that a majority of consumers would also "delay paying some bills" or "borrow from family or friends" – even though "Deborah," the case study in their research, indicated that she "didn't want to ask somebody for it."

Research has shown that in the absence of payday loans consumers may fall further behind on their bills which subsequently could impact their credit score. In a recent study from the Federal Reserve of Kansas City examining the unintended consequences of restricting payday lending, the Bank concluded that such restrictions can adversely affect consumers, and demonstrate that payday loans are a cost-competitive option. The Bank reports that without access to payday lending, consumers may have limited ability to maintain formal credit standing, may have inadequate access to credit or may resort to more costly credit alternatives.

In the Federal Reserve Bank of New York's 2007 study titled, *Payday Holiday: How Households Fare after Payday Credit Bans*, researchers found that consumers in Georgia and North Carolina where payday lending has been banned are not better off: they bounce more checks, complain more about lenders and debt collectors and file for Chapter 7 ("no asset") bankruptcy at a higher rate.[4]

### 4. Does Payday Lending Regulation Affect Usage?

Unfortunately, the report also fails to adequately explore consumers' persistent credit needs in the absence of payday loans, including as a result of restrictive regulation, as well as the unintended consequences of such regulation.

In the study *The Case Against New Restrictions on Payday Lending*, Todd J. Zywicki of George Mason University's Mercatus Center concludes, "Economic theory and empirical evidence strongly suggest that…paternalistic regulations would make consumers worse off, stifle competition, and do little to protect consumers from concerns of over indebtedness and high-cost lending."[5]

Furthermore, "Deprivation of access to credit could cause substantial economic and personal harm if it forces the consumer to go without the means to meet necessary expenses such as medical care, car repairs, living expenses, rent, or work-related expenses such as transportation or appropriate work clothing."[6]

This research also found "[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use "rollovers") almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation."[7]

[4] Morgan, D.P. & Strain, M. (2007). Payday Holiday: How Households Fare after Payday Credit Bans. Federal Reserve Bank of New York.
[5] Zywicki citation
[6] Zywicki citation
[7] Zywicki citation

Colorado Financial Service Centers Association
P.O. Box 11584
Denver, CO 80211

May 7, 2015

Paul Hoffer
Xpress Cash Management, LLC
5920 North 39th Avenue, Suite 1
Wausau, WI 54401

**Re: Small Business Regulatory Enforcement Fairness Act Panel on Payday and Installment Loans**

Dear Mr. Hoffer,

My name is Chris Rockvam and I am the current president of the Colorado Financial Service Centers Association (COFiSCA). I know that you participated as a Small Entity Representative in the recent SBREFA Panel. As such, I am asking you to communicate to the CFPB the severe impact that Colorado's 2010 law had on independent small businesses in our state. Additionally, I have questions for the CFPB about how its proposal would co-exist with current Colorado state law.

COFiSCA represents the majority of supervised lenders in Colorado that service the citizens of our state by offering small loans up to $500 with a minimum six month term. I have held the position of president of our association for the past two years (2014-2015) and prior to that I was the treasurer for a span of eleven years (2003-2013). My family currently owns and operates three licensed locations along the Northern Colorado Front Range. My father and mother opened our first location in Fort Collins, Colorado in September 2000.

During my time of being actively involved in the industry, I have seen many changes, but none have had a greater impact than when the Colorado state legislature changed our loan product from a payday loan with a maximum term of forty days to having a minimum term of six months. In addition to the change in the length of the loan, the fee structure was also greatly modified. Under the old payday loan model within the State of Colorado prior to 2010, a lender would earn $75 on a $500 loan every two weeks the loan was outstanding depending on when the individual was paid. Since the new law was enacted in 2010, it now takes approximately two months to earn that same $75 on a $500 loan.

The new six month installment loan product became law in October 2010 and it had a profound effect on the number of locations offering loans within the state of Colorado. As per the Deferred Deposit/Payday Lenders Annual Report issued by the Colorado Attorney General's Office for the 2010 calendar year, the number of licensed locations was 410. The most recent report issued by the Attorney General's office for 2013 states that the number of locations has shrunk to 260. This represents a 36.5% decrease in the number of stores within the state of Colorado that were forced to close as a direct result of the change in payday lending laws that were enacted in 2010. Small business owners like our family have been hit the hardest by this change in law since 2010. My family was forced to close two of our five locations and layoff 40% of our work force when the law took effect in October 2010.

Perhaps the most telling sign that small business owners were impacted the most by the new law can be referenced in the Annual Report issued by the Colorado Attorney General's office. As of 2010 the report indicated that there were 65 individual lenders, as of 2013 that number was reduced to 39. This represents a 40% decrease in the number of individual owners within the state of Colorado. While a few large national companies closed all their location and left the state after 2010, the vast majority of the 26 lenders that are no longer in business were small business owners.

On behalf of the Colorado Financial Service Centers Association, I am greatly concerned that further proposals being considered by the Consumer Financial Protection Bureau regarding longer-term loans would cause more small business owners to close locations and lay-off employees within the state of Colorado. Under the proposals being considered by the Consumer Financial Protection Bureau for the longer-term loan products there are inherent problems that will be difficult if not impossible for small business owners to adopt in order to be in compliance while still being able to make a profit and stay in business.

The Bureau is considering allowing lenders to make two types of longer-term loans under the Alternative Requirements section. Since, none of our association members are classified as credit unions within the state of Colorado, I will not comment on the merits of the proposals being presented under the NCUA-type loans. The second alternative type loan that is titled "Maximum PTI" has criteria that would be burdensome on small business owners in Colorado. By limiting the number of loans that a consumer can initiate within a rolling twelve month period of time to two loans, it would not only have a negative effect on the lenders, but ultimately the consumers. Under current Colorado law, all fees and interest are earned on a pro-rata method, except for a monthly maintenance fee that accrues monthly beginning at the end of the second month until the loan is paid in full. Therefore, if the customer pays off their loan before the end of the second month, they pay considerably less than if the loan went the full term. For example, if a person takes out a $500 loan and then pays off the account in fourteen days after initiating the loan the total finance charge is $10.06 on average. However, if that same $500 loan goes the entire 6 month term the total finance charge will be $288.69. By limiting the number of loans an individual can initiate in a year it may encourage consumers to keep their loans out for a longer period of time because they are aware that they will only be able to use the service twice in a given year. Colorado law allows the customer to make their own financial decisions and utilize our loan services whenever it is needed. Under the proposed regulations by the Bureau, if a person were to take out a loan in January to cover a medical expense and payoff the loan within a month, then take out a loan in June to pay for rent and payoff the loan within two months, and then attempt to take out a loan in November for new snow tires so that they can get to work, we as the lender would not be able to help them in their time of need for that third loan request. As small business owners we would be harmed because we would have to turn the customer away and instruct the consumer that they won't be able to take out another loan since they already had two loans in the last twelve calendar months.

The illustration above is one example in which the CFPB proposal would not easily co-exist with Colorado law and prompts many unanswered questions. For instance, under the "Maximum PTI" loan section, the CFPB state that loans must have a "duration between 45 days and six months." However, here in Colorado the minimum loan term is six months. The majority of our loans range between six and seven months so that payments coincide with the consumer's paydays. Would the CFPB proposal mean that Colorado lenders can only issue loans for exactly six calendar months or can loan terms be six months and 15 days, or six months and 21 days, etc.? There will once again be inherent problems with limited loan terms to exactly six months because it will cause payments to fall on arbitrary dates that don't coincide with the consumer's paydays. This will cause an increase in defaults and additional charges to accrue for the customers due to insufficient funds fees from the lender and their banking institution.

If these regulations are enacted in their current state by the Consumer Financial Protection Bureau, it is certain that more small business owners within Colorado will be forced to close their stores resulting in more people losing their jobs. We have already experienced a 40% reduction in the number of lenders within our state and I personally don't want to experience that type of negative effect on our industry again.

Sincerely,

Chris Rockvam
President
COFiSCA

May 8, 2015

Paul Hoffner
Xpress Cash Management, LLC
5920 N. 39th Ave., Ste. 1
Wausau, WI 54401

Dear Paul,

Thank you so much for representing the small businesses in the payday loan industry on the recent SEBRFA Panel. I especially appreciated your comments on the effects state regulations have already had on our industry and specifically the local lenders who don't have the resources to survive the kind of regulation we saw in Washington State in 2010. I don't think there is a more relevant example in the country of just how devastating the consequences of well meaning legislation can be on local businesses, the people employed by those businesses and the consumers the legislation was intended to help. So many lives hinge on the decisions of CFPB and I really hope you can present this letter as a first hand perspective on the damage the Bureau can cause if both sides of the issue are not fully and carefully considered.

To begin, let me give you some history about my company, its employees and our philosophy with respect to employees and customers. I opened my first store in 1989 and slowly grew from that first store to 22 brick and mortar locations, a 10,000 square foot corporate office and an Internet store by December of 2010. I had nearly 150 full time employees, all of whom had health insurance, a 401k plan, very competitive wages and many great advancement opportunities. Even though our company had far fewer locations than the many national companies in our state, our 22 locations in western Washington were second in total volume. There was only one company that did more payday loans than Check Masters. That success really does demonstrate the powerful relationship that a small local company can have when backed by its community and given the opportunity to succeed.

With very few exceptions, my employees all started at the entry level. It was probably the most rewarding of everything I did as an owner, because I was able to see literally hundreds of young people start at the bottom, work hard and achieve great success, many to the highest levels of my company. Employees with no college experience, and sometimes only a GED, were exposed to an environment where their success was completely related to how hard they worked and how well they did their job. My employee loyalty was incredible and their excitement about the company was seen directly in the success of our individual stores. Our tag line was "Heart Always Matters", which may seem strange to many unfamiliar with our industry, but the reality was that we did care about our customers and it translated into a large and loyal customer base. Employees were happy, customers were happy and the business thrived!


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Consequently, I was very involved with the legislative changes over the years in Washington State and 2009 was not any different. I had my employees and customers travel to Olympia testifying about what the proposed legislation would do to my business, our employees and our customers. I met personally with many legislators and thought we had educated them about the extreme challenges we would face, but in a last minute negotiation at midnight, our supported legislation was changed and then passed. Both sides had agreed to a statewide common database. But we were all stunned to see the addition of the annual 8 loan cap and mandatory payment plans that had to be converted into no-cost installment plans anytime the customer said they could not pay the loan when due. Either one of the additions would have been hard to deal with, both were catastrophic.

Going into January of 2010, we knew there was going to be scramble for customers as the database was put into effect. We also knew there would be heavy losses before the dust settled. It was far worse than we had modeled. We expected a 30% loss in revenue but saw over 60% immediately. I scrambled to find ways to keep the company alive, closing 10 stores almost immediately, hoping that the customers from those locations would move to those that I kept open. It didn't work. Within 4 months, my company that I had spent my adult life creating, where I had invested all of my assets, was suddenly gone and in receivership. It was completely shut down, all assets dispersed to creditors by January of 2011. My company that showed retained earnings of nearly $6 million on December 31, 2009 had been completely liquidated and I was left with nothing.

Even more tragic were my employees, many of whom had spent 10 plus years working with me, were out of work in the height of the recession and for the most part were unable to find anything close to the employment opportunity they had while working with me. It was amazing how many of those employees were still receiving unemployment benefits 2 years later! I know of several old employees who lost their homes, having to move in with relatives as a result of unemployment. It was and is tragic in so many ways.

Additionally, there were the thousands of customers impacted by the new legislation. We had hundreds of customers go into default the first month of 2010. The database locked them out of the system. They couldn't get the money they needed and so they defaulted. There is no question their credit scores were impacted as they chose to give up on repaying their outstanding loans after seeing that we were out of business. Our state has also seen a huge increase in the number of customer complaints about Internet lenders since the legislation went into effect. These complaints are not coming from the licensed Internet lenders; they are coming from the off-shore lenders who don't follow any of the laws in our state or country with respect to payday loans. The consumers can't differentiate between the good guys and bad and end up getting in very desperate situations from these lenders. The Department of Financial Institutions (DFI) does not have the ability to stop the offshore lenders and advises consumers not to repay loans from unlicensed lenders. This is of no help to someone who has had their account hit every payday for months and months, without having the ability to pay back the principal (the loan is setup that way, even if they have the money to repay, they can't). The damage continues unless they close their bank account and DFI has no way of closing these bad guys down.

After Check Masters was closed down and liquidated, I was able to open 4 of the 22 locations with the help of my father under a new name. I also opened an Internet store that I had to close after just 6 months due to the pressure CFPB put on my bank that handled the ACH Authorizations. I have been trying to figure out a model that works in our state, but it is very difficult with the new legislation, even when running at the most lean levels. I have closed one of the four locations and now have just three with twelve full-time employees who do not have nearly the benefits that they had before. I don't know of any other local companies that survived the legislative changes. The only stores I see in the Seattle area are the national companies. None of the small guys had the resources to deal with the changes and have all closed down. I am a teller much of the time now and I see the frustration of so many customers who are not able to get the money that they need for whatever reason. It makes no sense to them and they are truly astonished that the government can put such restrictions on their access to money. I have seen many in tears as they leave trying to come up with some other way to deal with their financial need. The very legislation that was supposed to help them has made their lives much more complicated and stressful. And in most cases, their alternatives are more expensive, as they are forced to use the offshore lenders or deal with the many penalties for late bill payments or overdraft protection fees.

Finally, I don't have the resources to study and understand the proposed rules from the CFPB that I would have had in 2010; but what I do understand has made it clear that I will not have 3 stores open if the proposals are implemented. I am already facing the biggest challenge of my life just to make my business work in the current environment-- despite having great customer service, very loyal employees and customers. If more restrictive elements are added to what has already been imposed, I will be done. It would be another example of the little guy being pushed out in favor of big national companies with very little connection to the community (although in this case I am not sure that even the national guys could survive). Our country has always supported and promoted small business as the engine of our economy. National players simply cannot provide the same kind of positive impact on local communities as the businesses who are part of and come from those communities. The proposed rules of CFPB would do nothing but make life more difficult for consumers throughout our country. I pray that CFPB will re-evaluate their position and make rules that truly do benefit our communities and the people throughout the country.

Thank you again for your work on this issue. I hope my story helps demonstrate the realities and destruction well-intentioned regulation can have on small businesses and the families we support as well as the communities we are part of.

Sincerely,

Kevin McCarthy
General Manager

-----Original Message-----
From: Mason-Gillespie, Christel [mailto:Christel.Gillespie@leg.wa.gov] On Behalf Of Kirby, Rep. Steve
Sent: Tuesday, May 12, 2015 12:28 PM
To: Hoffer, Paul M
Subject: Comments on CFPS Proposed Rules
Importance: High

Dear Mr. Hoffer,

As Chairman of the Business and Financial Services Committee for the Washington State House of Representatives, I would like to submit my comments on the proposed rule changes, through you, as acting SER. The attached letter has been sent to Director Cordray via post.

Thank you for your assistance.

Steve Kirby
Chair, Business & Financial Services Committee State Representative 29th Legislative District

STATE REPRESENTATIVE
29th LEGISLATIVE DISTRICT
STEVE KIRBY

State of Washington House of Representatives

BUSINESS & FINANCIAL SERVICES
CHAIRMAN
COMMERCE & GAMING
JUDICIARY

May 12, 2015

The Honorable Richard Cordray, Director
U.S. Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

I am writing to express serious concern and to voice strong opposition to the direction the CFPB is heading with regard to payday lending regulations. Specifically, I am troubled by how your proposals run afoul of Washington's state laws and consumer protections.

In Washington, our legislature worked with consumer groups and industry to create a framework that protects consumers and ensures viable choices for those who need short term lending products. As Chairman of the House Business and Financial Services Committee, I facilitated the negotiations in 2009 that resulted in what I believe to be the best payday lending law in the country including the establishment of a statewide data base to prevent multiple loans at multiple lenders, a cap on the amount a consumer may borrow relative to their income, and the implementation of a payment plan for consumers who default on their original agreement. Unfortunately, we also passed an arbitrary eight-loan cap on the number of loans to a consumer annually which I believe has proven to be too severe, and leaves consumers with no place to go once they reach the cap, other than the unregulated internet market. It needs to be changed to a more consumer friendly solution, but in a way that protects those consumers who struggle to manage the product well.

Most recently, we have been working on a proposal that would replace the short term payday loan with a longer term installment loan product, very similar to the successful short term loan product currently allowed in Colorado – ***while keeping virtually all of the consumer protections in our existing payday loan laws.*** The regulations that exist for the current payday loan product – except for the hard cap – work very well, and the new proposal results in a product that will work exactly the same, except for the fact that consumers would have more time to pay back the loan. I believe the direction the Consumer Financial Protection Bureau (CFPB) is heading will do great harm to the agreement we reached in 2009 and/or the new, improved product with which we are trying to replace the traditional payday loan.

As a State Legislator, I am directly accountable to the voters who place their trust in me, and your proposals seem to ignore the hard work we have undertaken to achieve the balance of consumer protections and consumer choice in Washington and frankly, appear to me to be designed to do away with the industry altogether. I am asking other elected officials in Washington to express their own concerns about your Bureau's direction with regard to short term consumer lending, and I hope that causes you to reconsider the proposals you rolled out last month.

Sincerely,

Steve Kirby
Chair, Business & Financial Services Committee
Washington State Representative
29th Legislative District

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**From:** Benton, Sen. Don [mailto:Don.Benton@leg.wa.gov]
**Sent:** Tuesday, May 12, 2015 5:21 PM
**To:** Hoffer, Paul M
**Subject:** Comments regarding the CFPB's proposed rule on payday lending

Mr. Hoffer,

As the Chairman of the Washington State Senate Financial Institutions & Insurance Committee, I would like to submit my comments regarding the CFPB's proposed rule on payday lending and short-term loans. As SER, I believe you are the appropriate and best conduit to do this during the SBREFA process. Thank you for your valuable work and service.

Sincerely,

Don Benton

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Tuesday, May 12, 2015

The Honorable Richard Cordray, Director
U.S. Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Cordray:

I am writing to express concern and to voice strong opposition to the direction the CFPB is heading with regard to payday lending regulations. Specifically, I am troubled by how your proposals run afoul of Washington state laws and consumer protections.

In Washington, our legislature worked with consumer groups and industry to create a framework in 2009 that protects consumers and ensures viable choices for those who need short-term lending products. The negotiations of the Legislature's financial institution committees and industry stakeholders resulted in what I believe to be the best payday lending law in the country, including the establishment of a statewide data base to prevent multiple loans at multiple lenders, a cap on the amount a consumer may borrow relative to their income, and the implementation of a payment plan for consumers who default on their original agreement.

Unfortunately, we also passed an arbitrary eight-loan cap on the number of loans to a consumer annually, which I believe has proven to be too severe and leaves consumers with no place to go once they reach the cap, other than the unregulated internet market. It needs to be changed to a more consumer-friendly solution, but in a way that protects those consumers who struggle to manage the product well.

I believe the direction the Consumer Financial Protection Bureau (CFPB) is heading will do great harm to the agreement we reached in 2009. This, in turn, would endanger the most vulnerable populations in Washington, forcing them to do business with unregulated lenders when payday lenders cannot provide the products they need.

As a state legislator, I am directly accountable to the voters who place their trust in me. Your proposals seem to ignore the hard work we have undertaken to achieve the balance of consumer protections and consumer choice in Washington and, frankly, appear to me to be designed to do away with the industry altogether. If so, this is a shortsighted aim that puts at risk some of the most vulnerable populations in our society. For the sake of these populations, and for the sake of an industry that serves a necessary purpose in my state, I urge you to reconsider the proposals you rolled out last month.

Sincerely,

Don Benton

Senator Don Benton
Chair, Senate Financial Institutions & Insurance Committee
17th Legislative District

In addition to the items above, Mr. Hoffer included the following item in his written feedback to the Panel:

1. Jonathan Zinman, Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap, Journal of Banking and Finance 34, 546-556 (2009).

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May 13, 2015

*Submitted via email:* cfpb_payday_sbrefa@cfpb.gov

Mr. Dan Sokolov
Chairman, Small Business Review Panel
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

*Re. Small Entity Representative Written Comments for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans*

Dear Mr. Sokolov and Small Business Advisory Review Panel Members:

Thank you for allowing me to participate as a small entity representative ("SER") during the SBREFA panel discussion for the CFPB's "Potential Rulemakings for Payday, Vehicle Title, and Similar Loans." I appreciate the opportunity to provide my comments and concerns about the CFPB's Outline of Proposals under Consideration and Alternatives Considered ("Proposal" or "Outline"), and how these rules, if enacted, would adversely affect my small business.

## I. Introduction

I am the President of Speedy Cash, Inc./LendingBear, a small family-owned business started by my father over 25 years ago. We currently have 26 storefront locations in three states – Florida, Georgia, and Alabama – and employ over 110 people. Our business offers payday loans, title loans, and traditional pawn loans, and the particular product mix offered in each state varies depending on the state law.

We are a proud company that focuses on customer satisfaction and the relationships we build with our borrowers. We know our customers very well and strive to meet their financial needs. In many cases, we know our borrowers personally — especially in the small towns in which we operate. We know them by name, we know about their kids, their grandkids, their pets, their stresses, their joys, and their hobbies. It is very rare for a customer to file a complaint about the lending experience with our business.

With every loan that my business offers, we try to lend money only to those who can pay us back. There seems to be a fundamental assumption being made by the CFPB that lenders like me are trying to fleece our customers and lead them into "debt traps." That could not be further from the truth. It is simply not in our interest to lend money to people who cannot pay us back. When my small business makes a loan – I am lending out my own money! Of course I do not want to lend to someone who cannot repay. Knowing our borrowers helps us make better loans that repay more often.

It is important to recognize that these short-term credit products are very simple. Take the payday loan product – customers understand it, they like it, it's convenient for them, and it solves their problem. Which is just one of the reasons why I cannot understand all of the CFPB's assumptions in this proposal and how the CFPB can be headed down such a restrictive regulatory path.

The CFPB Proposal estimates that loan volume for payday lenders will drop 54.8% to 84% under the proposed alternatives. How does a proposal that eliminates such a large percentage of loan volume in the market equal a solution for consumers? The CFPB Outline as presented would decimate our payday and title lending business. **Every single one of our payday and title stores would not be able to remain open under the CFPB rule. We would be forced to close our stores and lay off our employees.** In addition, all of our customers who rely on these products would be turned away – and I worry about where these customers are going to go.

It seems to me that the CFPB has not fully considered the adverse effects of its rule proposal. Also, the CFPB does not seem to understand how the rule would affect small businesses and the customers that we serve. In addition, the CFPB has made many different assumptions in its proposal, which are not supported by data and research, and attempted to present a solution without evidencing a problem. I worry about all of the short-term borrowers who would lose credit options under this CFPB proposal.

## II. Company Background/Rural & Underserved Areas

I am very concerned about our company's employees if the CFPB Proposal were to take effect. Our company currently employs 118 people in three states – all of which earn in excess of the minimum wage rate in those states. We provide opportunities for employees to grow and advance their careers, boasting a 98% internal promotion rate for entry level employees. We provide to all employees a competitive benefits package that is comparable to or better than both private industry and local government (according to the Bureau of Labor Statistics data published March 11, 2015). Our company offers paid leave, supplemental pay, health and life insurance benefits, and retirement and savings plan. If the CFPB rule proposal was the law of the land, all of our employees supporting payday and title loan storefronts would lose their jobs.

The CFPB Proposal would be <u>especially</u> devastating to people who live and work in rural and underserved areas, particularly since so many small businesses operate in rural and underserved areas. My small company is a prime example of this. For example, over 50% of my operations are in rural or underserved areas as determined by the CFPB (as well as state and local governments including Opportunity Zones and Enterprise Zones). And, 54% of our stores are located in small communities with populations below 20,000, and 42% of our stores are in communities with fewer than 15,000.

Our company has great "small town" relationships with our customers, and we participate in many programs that support these communities. The employees who work in these stores are sourced from the local communities and are, in most cases, very familiar with the customers. The CFPB's analysis simply does not consider the adverse impacts of its proposal on consumers or businesses in rural and underserved communities.

In addition, the CFPB states in its Outline (p. 45-46) that: "*The proposals under consideration could, therefore, lead to substantial consolidation in the short-term payday and vehicle title lending market."* I am confused as to what the CFPB means by "consolidation". What would this "consolidation" entail and how is this really a solution? What research has been done on how this "consolidation" would work and what its impact would be on consumers? It sounds to me like a way to say businesses would close and employees would lose their jobs – especially in the rural and underserved areas.

## III. Satisfied Customers

I am concerned about the dire effect that this CFPB Proposal will have on the many thousands of our business' satisfied customers. In just one year alone, in 2014, our business served over 13,500 payday loan customers and over 3,300 title loan customers at our storefront locations. These customers willingly chose our business because we offer a credit solution that they need and want. Without the availability of these offerings, I worry about the fewer options these customers will have and where they will be forced to go for credit.

Because over 50% of our operations are in rural and underserved communities, most of our customers in those same communities would suffer greatly without the availability of credit that we offer. Given the requirement in the Dodd-Frank Act that the CFPB consider the impact of its actions on rural and underserved markets, I find it extremely hard to understand why the Bureau has presented absolutely no analysis in this area before putting this proposal to us for feedback.

### a. Harris Interactive Study

The fact that customers are satisfied with our products is supported by a national public opinion survey conducted in 2013 by Harris Interactive, an international research and polling company. This Harris Interactive study is the first large, statistically significant one that looks at the motivations and rationale of payday loan users. While numerous studies have examined the economics and policy implications of short-term lending, this Harris poll is the first in-depth examination of payday loan borrowers' experience. Here are a few of the highlights of this study:

- 9 out of 10 customers were satisfied with their payday loan experience;
- More than four in five customers said that before starting the process, they understood very well how much it would cost (85%) and how long it would take to completely repay the loan (84%);
- 95% of customers valued having the option to take a payday loan; and
- 93% of customers carefully weighed the risks and benefits before taking the loan.

These results show overwhelming satisfaction with the payday lending product, and certainly do not support the CFPB's restrictive proposals. (For more information about this Harris Interactive study, please see Attachment 1.)

**b. Very Few Consumer Complaints**

Our business is very focused on customer satisfaction at all of our storefront locations. (As a best practice, we maintain a toll-free telephone hotline that is posted prominently in all of our stores.) We rarely receive any consumer complaints – and when we do, we work immediately to resolve them. For instance, in 2014, our company conducted over 92,300 payday loan transactions – yet received only seven complaints on the hotline. In addition, since the CFPB Consumer Complaint Portal was introduced, our business has received only one consumer complaint.

Despite the CFPB's assumptions that payday loans serve to harm those who use the products, our industry continues to have a very small number of complaints, especially when compared to other industries. The CFPB's very own consumer complaint data shows this to be true. In fact, if you take the payday loan complaint total presented by the CFPB in its March 2015 Consumer Response Annual Report, based on the over 100 million payday loan transactions in 2014, the incidence of a payday loan complaint would be .006%. And for a brick-and-mortar payday lender like myself, the complaint total cited by the CFPB that is attributed to storefront lending accounts for less than half of the complaints received:

> *Of the 5,600 payday loan complaints submitted by consumers, approximately 65% were about problems consumers experienced after obtaining a payday loan online. Approximately 13% reported problems when obtaining a payday loan in person / at a store. For the remaining approximately 22% of complaints, the consumer did not indicate how the loan was obtained.* (See CFPB Consumer Response Annual Report, March 2015, p. 32).

The previous year's CFPB report (*CFPB Consumer Response: A Snapshot of Complaints Received*, July 2014) stated that payday loans accounted for just one percent of all consumer complaints received. And of the payday lending complaints, only one-tenth of those complaints were about storefront lenders.

Even within the CFPB's own complaint data, it is clear that our industry has few complaints, especially when compared to other financial products and services. Payday loan complaints remain proportionately much lower than nearly all other products and services. This fact is also consistent with a continuously low number of complaints at the state level. And, for years, the Federal Trade Commission has reported in its annual consumer complaint report that payday lending has accounted for less than one percent of complaints in the "Banks and Lenders" category, thus making a mere fraction of a percentage of the total complaints filed by consumers on a yearly basis.

The CFPB Proposal, which would decimate the small businesses in the payday lending industry, certainly cannot be justified by the level of consumer complaints. In fact, it seems that the CFPB is moving forward with a proposal DESPITE the incredibly low consumer complaint total for the industry.

## IV. CFPB Rule Proposal

I am concerned that the CFPB has not taken the time yet to do its research and does not fully appreciate all of the current state laws and restrictions that are already in place. CFPB has clearly not conducted a state-by-state, product line analysis of the impacts of these rules. At several points during the SBREFA process, the CFPB stated that research on how its proposals will interact with state laws would be done later in conjunction with a rulemaking. I find it very hard to understand why the CFPB would conduct that part of the research after the panel discussion and receiving our input. From both the prep phone calls and the discussion in Washington, DC, there seems to be an overall lack of understanding and appreciation for state laws under which we operate.

Using the CFPB's very conservative revenue reduction of -63%, the proposal would result in the closure of ALL of my company's storefronts offering payday loans and title loans. In addition, the thousands of payday and title lending customers who our business serves would be forced to seek short-term credit elsewhere where it may be much more expensive.

It seems that the CFPB has already made up its mind about payday lending and is trying to effectively ban it. Yet, how can the CPFB move forward with rules – or even ask us to spend our time providing input on the CPFB proposals – without doing adequate and important research on the state models? CFPB should be aware of, and fully examine, how each state currently offers short-term lending credit options and regulates the process through licensing, examinations, and on-going reviews.

As an example, upon reviewing the CFPB Outline, I was surprised by the absence of an overall enhanced disclosure requirement as a solution to better ensuring that consumers understand the products they utilize. This absence was particularly surprising given that the Outline restates the Dodd Frank Act Section authorizing the CFPB to "prescribe rules to ensure that the features of a financial product or service are fully, accurately, and effectively disclosed to consumers both initially and over the term of the product or service in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances" (Outline, p. 4-5). By not addressing disclosure documents as it reviewed ability to repay concerns, the CFPB missed an opportunity. Instead, the CFPB skipped over disclosure improvements as a solution and went straight through a process of making assumptions about consumer harm and attempting to restrict credit products without proper justification.

Also, it is not clear how the CFPB even arrived at some of its restrictive proposals. For example, what is the basis for the lengthy 60-day cooling-off-period requirement imposed on short-term loans? While some states have enacted short cooling-off-periods (not to be confused with Florida's grace period), no states that regulate short-term credit products have mandated such a restrictive rule. Also, why did the CFPB select a 5% gross monthly income level as an option for the ability to repay requirement for longer term loans? This arbitrary amount seems especially out of line with states offering title loans, such as Illinois (who has a 50% gross monthly income), and South Carolina and Tennessee (who offers 30%).

### a. Lack of Substantive Research

The CFPB has not sufficiently determined the basis for the positions it takes in its Proposal, nor backed it with empirical research. The CPPB has not performed research and analysis to conclude that the payday loan product causes substantial injury to consumers. Instead, the CFPB has presumed there is substantial injury despite contrary evidence demonstrating that the payday loan product benefits consumers' welfare.

The CFPB seeks to address four issues "of concern" with their proposed regulations, with each issue being assigned an intervention designed to provide consumers a way to access short-term credit while protecting them from alleged harm caused by the product or the lenders. These interventions are categorized as the following themes: ability to repay/underwriting; frequency of use; off-ramps or extended payments; and collection practices. Yet, it seems clear that the CFPB has not shown substantial empirical evidence to support that its chosen interventions will make consumers better off.

The research the CFPB has completed on these credit products seems quite limited, and I am not aware that the Bureau has studied title lending in any systematic manner. So while we are discussing these rule proposals, where is the evidence to prove that limiting the number of small businesses offering short-term loan products will make consumers better off? Given my experience, and the thousands of satisfied customers that we have, I would argue that my customers are much better off having taken out payday loans.

Academic studies have actually shown that when consumers' access to payday loan credit is limited, consumers do not stop borrowing. Rather, they may be forced to switch to inferior substitute forms of credit that are available to them.

For example, an article by Jacob Goldin of Princeton University and Tatiana Homonoff of Cornell University entitled, *"Consumer Borrowing After Payday Loan Bans,"* examines how consumer borrowing behavior changes when consumers lose access to payday loans, specifically analyzing the effect of state-level payday loan restrictions. The investigators find that such bans of payday loans do not reduce the number of individuals who take out alternative-financial-services loans. Furthermore, they find that a reduction of payday loans through state bans can result in further constraining access to credit, and may actually be counterproductive and harmful. (See Attachment 2). The potential that my customers will not be able to access a responsible form of credit by utilizing the products we offer means they will have to turn to inferior, likely more expensive, credit products.

The CFPB has stated that it is basing at least some of its understanding of the industry on Pew research. However, when one takes a close look at this research, much of what is presented by the advocacy arm of Pew – called the Pew Charitable Trust's Safe, Small Dollar Loans Research Project – is fraught with issues. For example, here is just a sampling of some of the major problems with Pew research:

- Pew's research does not stand up to scientific or academic rigor, as it mostly relies on anecdotes and focus groups, rather than controlled study of large data, or new quantitative research.
- Pew's views and findings are contradicted by empirical, peer-reviewed research about the industry.
- Pew often fails to distinguish between licensed and unlicensed lenders in its studies, when there are distinct differences between the various models for payday lending.

Additionally, one commentator had this to say in a discussion about a dubious Pew report on payday lending:

- *The Report has significant global weaknesses and flaws. It is based on surveys of only 450 storefront borrowers (and far fewer online borrowers) who were asked about their transactions up to five years in the past. With its unmistakable hostility to payday lending, Pew assumes, without real proof, that payday borrowers are induced to take loans by lender misrepresentations and/or the borrowers' own cognitive foibles. However, Pew ignores that payday loans are one of the simplest loan products available and that payday borrowers repeatedly report that they understand how their loans work*. (See CFPB Monitor, "Pew Payday Loan Study: What's New", March 5, 2013 found at http://www.cfpbmonitor.com/files/2013/03/Pew-study.pdf.)

I find it difficult to understand why the CFPB would place such weight on the questionable research of a political advocacy group.

**b. Does Not Coexist with State Law**

Each state regulates each of these short-term products differently. There are various state law models in the states where payday lending and longer-term loans are available. Yet, the CFPB has not yet studied these state models and does not fully appreciate the environment of these state experiments.

The CFPB suggests that small businesses could diversify their product offerings in response to substantial reduction in revenues. This shows a lack of understanding because in many states that is just impossible. For example, where I operate in Georgia – state law does not allow a lender to add installment loans to the existing product mix. There, title lenders and installment lenders cannot operate out of the same storefront location. Also, in Florida, licensed pawnbrokers cannot be licensed under the Florida Title Loan Act or Florida Consumer Finance Act.

**c. Harm/Cost of Credit to Small Business Borrowers**

The CFPB Proposal will also have an adverse effect on the cost of credit to small business borrowers in the industry. While a customer's reason for taking out a short-term loan, or how the loan is ultimately used, may not always be apparent, I do know that my business provides loans to customers in order to finance their small businesses. For instance, I know of several dozen loans, especially title loans, which were taken out by customers to support their small businesses. Some examples of these small business customers included a daycare, several lawn services, a real estate agent, a logging company, a housekeeping business, multiple contractors, and a catering service. The reasons for these borrowers taking on the debt included funding payroll, paying for repairs to vehicles essential to the business, covering building repair costs, and purchasing needed supplies.

During this process, I decided to see if I might be able to gather a few examples from some of these small business customers. Within just one week's time, six of our customers came into a storefront location – each willing to make a special trip to our store on their own time – to provide us with a handwritten letter about their experience with our business and the particular way our products have helped their small businesses. Each of these customers has their own story. One is a pastor of a small church who told me that with very limited financing options, "[A]ccess to short-term loans is critical for us to continue the work of the ministry." Another is a single father and disabled veteran who said "short-term loans are necessary for myself and other small business owners, who don't have great credit or several assets" and was able to use these loans for "licenses, approvals, and equipment."

The common thread among these small business customers is that each had a short-term financial need – sometimes on more than one occasion – and our company was able to help get the credit each needed. These small business borrowers did not, or perhaps could not, go to a bank or a credit union or utilize some other option. Rather, these small business operators chose to come to us, and they were satisfied with the service we provided to them. I have attached the customer letters to this written comment letter (see Attachment 3).

A seventh letter I received was from a female-owned, small business owner here in Florida, who I recently spoke with about her experiences as a payday lending customer. (She had also offered to serve as a SER.) This individual sometimes uses payday loans to help support her small business' operations, especially since the loan amounts are typically too low for her bank to help her out. Here is an excerpt from her letter:

- *I use the services of businesses like yours to keep surviving until the next payday. As a business owner I am the last one who gets paid, and sometimes I need a small loan just to get by until the next two weeks. The total amount of money I may need may be less than $500, sometimes I may need more, but never is it enough for a bank to help me out. Small business owners are affected tremendously when it comes to borrowing from banks mainly because we don't really need to borrow a large amount of money, some of us may have bad credit and the banks do not want to deal with small business like mine …. I use short-term loans to pay bills at the office such as light, cable and I use the money to buy supplies …. If I did not have access to short-term loans my business would suffer greatly because I only need a little to keep my business going. If I am not able to make ends meet my clients will go somewhere else.*

There are small business borrowers that rely on the short-term products that we provide. If I myself was able to so easily identify these small business borrower examples in such a short time, I can only imagine how many more of our customers – and those customers of other businesses across the country – that would have a similar story to tell about how short-term credit products serve to help their small business' operations in times of financial need.

Even if a title lender like myself would be able to continue to operate under the CFPB Proposal (which I couldn't), there are numerous issues with the ability to repay requirements. For instance, the ability to repay requirements would be especially burdensome, and likely impossible, for title lenders and their customers who are small business owners and/or receive compensation without pay stubs. While the Proposal may allow customers receiving compensation without pay stubs to provide income verification through bank statements, this will not be possible for most title loan borrowers, who do not have bank statements. Thus, under the proposed rules, these small business borrowers would be totally prevented from obtaining title loans.

If the CFPB Proposal were enacted, I worry about where my business' customers – especially those who are small business owners themselves – will go for short-term credit.

## V. Adverse Effects of Prior State Regulations

Over the years, certain states have unfortunately enacted restrictive regulations that have had devastating and disastrous effects on small businesses in the industry. Yet, those state restrictions were much less onerous or burdensome than those proposed by the CFPB. In some cases, some businesses were able to survive, while others were not able to do so. We have seen how eliminating available products cause consumers to choose inferior alternatives.

### a. Virginia

For example, in Virginia, a new law took effect in 2009 that completely put my company out of business in the state. Our business was forced to close all four of our mono-line payday locations and lay off all nine of our full-time employees. I was certainly not the only small business victim as a result of the law changes in Virginia. In fact, according to the Annual Report on Payday Lending Activities by the Bureau of Financial Institutions of the VA State Corporation Commission (see Attachment 4), from the year 2007 to the end of 2009, the total amount of:

- Payday lending licensees declined from 84 in 2007 to 48 (end 2009);
- Payday loans made decreased by 87%; and
- Payday loans in dollars made decreased from $1.36 billion to $170 million.

Yet, it is notable that the restrictions imposed in Virginia were very mild when compared to what the CFPB is currently proposing.

### b. Georgia/North Carolina

Despite many assumptions asserted by the CFPB about customers in "debt traps," academic research has proven that consumers in states that have banned payday lending actually ended up worse off. Other unfortunate examples of states that passed restrictive regulation to the detriment of small businesses in the industry are Georgia and North Carolina. (While I am able to offer title loans in Georgia, I am not able to offer payday loans in that state.) For example, one such study states the following about these restrictions:

- "Georgians and North Carolinians do not seem better off since their states outlawed payday credit: they have bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 ("no asset") bankruptcy at a higher rate."
- "On average, the Federal Reserve check processing center in Atlanta returned 1.2 million more checks per year after the ban. At $30 per item, depositors paid an extra $36 million per year in bounced check fees after the ban."
- "Total complaints against lenders and debt collectors [in North Carolina] rose by over a third relative to other states"
- Banning payday loans did not save Georgian households $154 million per year, as the CRL projected, it cost them millions per year in returned check fees. (See Attachment 5).

Further, the authors stated that while the findings contradict the debt trap hypothesis against payday lending, they are consistent with the alternative hypothesis that payday credit is cheaper than the bounce "protection" that earns millions for credit unions and banks. Forcing households to replace costly credit with even costlier credit is bound to make them worse off. Thus, the research found that eliminating access to payday loan credit is harmful to consumers and suggests caution before writing rules that would restrict access.

## VI. Less Burdensome State Models

The CFPB Proposal appears to conclude, without appropriate research, that payday lending is harmful to consumers. To address the problems it assumes, the CFPB's proposed solutions do not actually help consumers and would serve to eliminate the industry completely. As stated earlier, the CFPB proposal seems to have been drafted without researching existing state models that were designed to address the same issues. Many state models, however, have a long history of success and have produced an important proper balance of access to credit with consumer protection.

The CFPB has failed to consider alternatives that are less burdensome to small businesses and that would serve to achieve comparable or superior consumer protections. There are simply better, more feasible, less burdensome state alternatives out there that the CFPB could consider.

### a. Texas – Enhanced Disclosures

As stated earlier, I was surprised that the CFPB elected to skip over the opportunity to enhance consumer disclosure documents. Many states mandate specific disclosures to better ensure that borrowers are fully aware of the loans they are taking out. For example, the State of Texas seems to have developed a good set of enhanced disclosure requirements for both payday and title lending (though not a state I operate in). In Texas, the disclosures used by regulated credit access businesses make it abundantly clear to the borrower what the cost of the loan will be, how long it will take to pay it off, and how it compares to other credit products. These disclosure documents also provide a series of questions for the borrower to consider before taking out the loan. (See

Attachment 6). My business has utilized some of these same notices in its consumer disclosure documents.

Taken together, the additional information presented to Texas borrowers improves the chances that they are making the right decision for them. Borrowers know their finances, and they know the available credit products they wish to utilize. Therefore, rather than assuming consumer harm and restricting credit products that satisfied consumers wish to utilize, the CFPB should instead consider improved disclosure documents, such as those in Texas, to better ensure borrowers are making the right decision.

**b. Florida**

Where I operate in Florida, that state's payday lending law would be a much better alternative than the CFPB proposal. The Florida law strikes a good balance between consumer protection and credit access, and addresses each of the four CPFB themes in its own way:

- Ability to Pay/Underwriting: one loan database; maximum loan amount $500.
- Frequency Consumption: 24 hour cooling-off period between loans; no rollovers.
- Payment Plan/EPP: lender provides a 60-day grace period without additional fees and the borrower is required to make an appointment with credit counseling agency and complete within 60-day grace period.
- Collection Practices: no criminal prosecution for an insufficient fund check; no additional interest or fees for late payment; and must follow collection practices contained in Fair Debt Collection Practices Act.

Upon adoption, the impact on the industry in Florida was a 30% industry-wide reduction in loan volume, with a reduction of small company licensees. Even though the industry suffered a pretty significant loss of loan volume, customers are able to reasonably access credit when they needed but are not capable of taking on multiple obligations and they have a significant and very simple off ramp. Furthermore, collections practices were strengthened and additional fees are prohibited during collection periods.

**c. South Carolina**

Another alternative to the CFPB Proposal is the payday loan credit model found in the State of South Carolina. While I don't operate in South Carolina, it is a border state of the states where I operate. South Carolina would be a better solution than the CFPB proposal because it provides a better balance of the need for access to credit with consumer protections. Some of the specifics of the South Carolina law that address the themes are as follows:

- Ability to Pay Underwriting: one loan limit industry-wide; maximum amount advanced $550
- Frequency Consumption: no rollovers permitted; next day cooling off period for all transactions and 2 day cooling off period before borrower's 8th loan or more in a year; loans up to 31 days

- Payment Plan/EPP: customer can elect before due date a no cost EPP of 4 equal installments; once in a 12 month period
- Collection Practices: no returned check charge permitted; right to rescind; no criminal prosecution.

Following the adoption of these changes in South Carolina, the payday lending industry experienced a 30% reduction in loan volume and an approximate 40% reduction in licensed storefront office locations. I understand that while these changes were pretty difficult for businesses, a good number of companies were able to continue operations and serve customers.

**d. Utah**

Another alternative to the CFPB Proposal is the State of Utah model. In Utah, recent regulations have served to provide a number of consumer protections, including a no-cost extended payment plan, while also maintaining access to credit to those who need it. Here are some of the ways Utah has addressed small-dollar lending:

- Ability to Pay/Underwriting: lenders must determine an ability to repay from either a credit bureau report, income verification, or prior repayment history AND the borrower must sign an acknowledgement that has the ability to repay.
- Frequency Consumption: rollovers must be requested by borrower; rollovers permitted but maximum time in product cannot exceed 10 weeks.
- Payment Plan/EPP: mandatory offering of extended payment plan after customer in product for 70 days; if customer refuses EPP, must pay off loan and 1-day cooling off (next business day); EPP is 4 payments over at least 60 days (with a $20 default fee).
- Collection Practices: partial payments on principal at any time without additional charge; right to rescind; no criminal prosecution; restrictions on collections at place of employment.

I hope the CFPB will consider these state models, which maintain a good balance between access to credit and consumer protections. It is important that the CFPB study how these and other states provide short-term credit options that are more feasible and less burdensome to small businesses.

## VII. Summary/Closing

In closing, I must say that I was completely blown away when I first saw the CFPB's rule proposal. I simply could not believe that the CFPB would issue a proposal based on so many assumptions and that so clearly lacked data and research, especially on small businesses operating in the industry. During the panel discussion in Washington, DC, I was amazed that the conversation solely focused on a rule proposal that did not seem to be justified. Also, I was surprised that the CFPB did not fully consider the adverse effects that its proposal would have on small businesses in the industry and their consumers.

Using the CFPB's very conservative revenue reduction stated in the Outline, such a rule would result in the closure of ALL of my business' mono-line and dual payday loan/title loan stores. In addition, all of my employees who support these storefronts would be laid off under this proposal. Furthermore, the many thousands of payday lending and title lending customers served by our business on an annual basis – who are satisfied customers – would be forced to seek short-term credit elsewhere.

It is my sincere hope that these comments, and those of other small business representatives, will be fully reviewed and will be taken very seriously. I hope that you will truly consider the adverse effects that this extreme rule proposal would have on small businesses. I hope that you will consider not just what it would do the small businesses like mine, but also to the people we employ and to our customers that we serve every day.

Thank you for your consideration.

Brian Lynn
President
Speedy Cash, Inc./LendingBear

**Attachments**

1. Harris Interactive Inc. Poll Results
    a. "Payday Loans and the Borrower Experience: Executive Summary," Presented by Harris Interactive Public Relations Research, Dec. 4, 2013.
    b. "Payday Loans and the Borrower Experience," Presented by Harris Interactive Public Relations Research, Dec., 2013.

2. "Consumer Borrowing After Payday Loan Bans" by Goldin, J. and Homonoff, T. (2013).

3. Customer Letters Received.

4. "Report on Virginia Payday Lending Activity for the Year Ending Dec. 31, 2009," prepared by Veritec Solutions, LLC on behalf of Bureau of Financial Institutions State Corporation Commission.

5. "Payday Holiday: How Households Fare after Payday Credit Bans," by Federal Reserve Bank of New York Research Officer Donald P. Morgan and Cornell University graduate student Michael R. Strain (2007).

6. Texas Disclosure Documents, "Payday Loan – Single Payment" and "Auto Title Loan – Single Payment," in accordance with Texas Finance Code Section 393.223 (rev. Dec. 2012).

Community Financial Services Association of America (CFSA)

# Payday Loans and the Borrower Experience: Executive Summary

Presented by: Harris Interactive Public Relations Research
December 4, 2013

# Table of Contents

# Methods

*Sampling Method*

CFSA emailed 12 member companies inviting them to include their customer data in the sample pool for this survey, with instructions for pulling the sample attached (see Appendix on pages 9-10). Member companies were instructed to email their sample files directly to Harris Interactive, and not to copy anyone from CFSA.

Four member companies responded and provided Harris with a complete list of their customers who met the sampling criteria. One member company responded and provided Harris with a randomly selected list of 10,000 of their customers who met the sampling criteria. A total of 281,031 records were received by Harris from the five participating member companies.

Harris Interactive handled all further sample preparation. Sample files were de-duped (meaning duplicate records were removed) based on phone number, and 10,000 records were randomly selected from each company (with the exception of the company which sent a total of 10,000 records – 9,667 usable records were selected from this company). Quotas were set during interviewing to ensure that 200 completed interviews were obtained from each company.

*Data Collection Method*

All data collection was conducted by telephone within the United States by Harris Interactive on behalf of Community Financial Services Association of America (CFSA) from October 9 – 24, 2013 among 1,004 respondents, ages 18+, who are customers of store-front companies within the CFSA, and took out a two-week payday loan of $700 or less, which they made final repayment of in July or August of 2013.

*Report Notes*

- Data are unweighted and are a representative probability sample of the population who were surveyed.
  - With a sample of this size, the estimated sampling error is +/- 3%.
- Throughout this report…
  - Qualified respondents (described in "Data Collection Method" above) will be referred to as "Borrowers".
  - The phrase "most recent payday loan experience" will refer to the loan borrowers repaid in July or August of 2013 – regardless if they have taken out a new loan since, as this was their most recent, complete experience with a payday loan.

# Summary of Detailed Findings

*Value and Demand for Payday Lending*

***Borrowers recognize the benefits of payday loans and appreciate having them as a short-term option for bridging financial gaps.***

- The vast majority of borrowers indicate that they value having the option to take out a payday loan (95%).
- Nine in ten (89%) agree that they feel more in control of their financial situation because of the option to take out a payday loan when they need it, and over two-thirds (68%) believe that without the option of taking out a payday loan, they would be in worse financial condition than they are now.
- About nine in ten borrowers agree that payday loans can:
    - Provide a safety net during unexpected financial difficulties (95%);
    - Be a smart financial decision when faced with an emergency cash shortfall (92%);
    - Be worth the cost because they make it possible to avoid late charges on bills (89%); and
    - Help customers bridge a gap in their finances (87%).
- Half (49%) of borrowers say they needed the money from a payday loan to pay for an unexpected expense (such as a car repair or medical emergency), and slightly fewer report they needed to pay ordinary expenses between paydays (44%).
- Additional reasons some borrowers cite for needing a payday loan include:
    - To avoid paying a late fee on a bill (28%);
    - To avoid bouncing a check or overdrawing their bank account (23%);
    - To help out a friend or relative who needed money (19%); and/or
    - Some other reason (10%).
- If faced with a short-term financial crisis, and unable to pay a bill, borrowers overwhelmingly say they would choose the payday loan option (a short-term loan charging a $15 fee for each $100 borrowed, due on their next payday, 68%) over:
    - Not paying the bill and incurring a late fee or penalty of approximately $30 (4%), or
    - Overdrawing their bank account and paying an overdraft fee of approximately $35 (3%).
    - One-quarter (24%) say they are not sure which of these three options they would choose.

***The demand for payday lending is based on preference, as borrowers choose a payday loan over other available financial resources.***

- A majority of borrowers report that when they needed money between paychecks in the past, they have:
    - Cut spending and done without something they need (67%); and/or
    - Borrowed from family/friends (60%).
- Other financial solutions that borrowers say they have turned to in the past include:
    - Overdrawn their bank account and charged on overdraft fee (43%);
    - Used a credit card (41%);
    - Pawned a personal item (27%);
    - Bounced a check and charged a fee (25%);
    - Taken out a cash advance on their credit card (17%);
    - Used an installment or title loan (15%);
    - Used an online payday loan (11%); and/or
    - Something else (6%).

- For most borrowers, at least one of these other financial resources was available when they chose to take out a payday loan instead – 92% indicate that a payday loan was <u>not</u> their only option, and they had other resources available at the time.
- Among borrowers who had at least one other available resource at the time they chose to take out a payday loan:
    - Nearly four in five (78%) say they chose a payday loan over other options because it is more convenient; and
    - Seven in ten cite it being faster (71%), and/or simple and easy to understand (70%).
    - About two-thirds report choosing a payday loan because they:
        - Didn't want to ask to borrow from family/friends (68%);
        - Had a previous good experience with payday lending (65%); and/or
        - Didn't want to overdraw their bank account and be charged an overdraft fee (64%).
    - Three in five (59%) feel a payday loan is more trustworthy; while
    - Two in five say:
        - It is less expensive (41%); and/or
        - They could not cut spending and do without a necessity (40%).

***Satisfaction with the payday lending process is high, with borrower experiences meeting or exceeding expectations and many intending to recommend or use payday lending again if needed.***

- Nearly all (98%) borrowers indicate they are at least somewhat satisfied – including two-thirds (65%) who are *very satisfied* – with their most recent payday loan experience. Reasons these borrowers cite as contributing to their satisfaction are:
    - Convenience (82%);
    - Their lender treating them with respect (81%);
    - Meeting their short-term need (80%);
    - A simple process (76%);
    - Their lender being honest (75%);
    - The ability to get a loan despite poor credit history (57%);
    - Less expensive than alternatives (52%); and/or
    - Something else (5%).
- 97% of borrowers indicate that their overall experience with the payday loan process was as expected (61%) or better (36%); 3% say it was worse than expected.
- Based on their most recent payday loan experience:
    - Four in five (80%) borrowers say they are very likely (62%) or likely (18%) to take out another payday loan from the same store if they need money between paychecks in the future; and
    - Two-thirds (65%) report they are very likely (46%) or likely (19%) to recommend payday lending to family or friends – conversely, one-third (35%) say they are not at all likely (13%) or somewhat likely (22%) to do this.

*<u>Informed Borrowers with Accurate Expectations</u>*

***Borrowers have done their homework and know what they are doing when it comes to payday lending.***

- 96% of borrowers assert that they use payday lending responsibly.
- Four in five (81%) feel that using payday lending makes economic sense for them personally.
- About nine in ten say that before taking out a payday loan, they:
  - Carefully weighed the risks and benefits of doing so (93%); and
  - Did the math on the overall cost they would incur (89%).
- More than nine in ten borrowers report that before starting the payday loan process, they understood very well or well:
  - How much it would cost to completely repay the loan (95%); and
  - How long it would take to completely repay the loan (94%).
- A similar percentage (94%) indicate that they were able to repay their loan in the amount of time they had expected to.
- Among a list of factors with potential to impact the decision to take out a payday loan, prior experience with payday lending tops the list, with three in five (61%) borrowers who have prior experience indicating this had a great deal or moderate influence on their decision.
  - Factors far less influential on their decision, that about one-third of borrowers (who have experienced each) report as having a great deal or moderate influence, are:
    - Researching payday lending on their own (36%);
    - Advertising for payday lending (34%); and
    - Recommendations from family or friends (33%).

***Expectations are realistic going into the payday loan process and for some, the experience was better than they had expected.***

- More than nine in ten borrowers' experiences with:
  - The <u>terms</u> of the payday loan were as expected (74%) or better (22%) (4% say worse than expected); and
  - The <u>cost</u> of the payday loan were as expected (71%) or better (21%) (7% say worse than expected).
- Over four in five (84%) borrowers say it was very easy (52%) or somewhat easy (33%) to repay their payday loan, while 16% feel it was somewhat difficult (13%) or very difficult (2%).

***Borrowers recognize the expense associated with payday lending, and tend to believe that the standard borrowing fee is fair.***

- Close to half (47%) of borrowers believe that, compared to other lending resources, the cost of payday loans is much more expensive (23%) or slightly more expensive (24%).
  - Slightly fewer (44%) think that payday loans are about the same as (27%), slightly less (10%), or much less (7%) expensive than other lending resources.
- Nine in ten (90%) borrowers feel that a flat fee of $15 per $100 borrowed is at least somewhat fair (very fair: 25%, fair: 37%, somewhat fair: 28%) as a payday loan term.
  - 8% believe this term is not at all fair.

*The Truth about Lenders*

***Borrowers overwhelmingly choose positive words to describe the payday lender they worked with during their most recent payday loan experience.***

- The positive: about four in five borrowers say their lender was:
    - Respectful (80%);
    - Helpful (79%);
    - Knowledgeable (78%);
    - Trustworthy (78%); and
    - Truthful (77%).
- The negative: less than one in ten borrowers say their lender was:
    - Deceptive (7%);
    - Misleading (3%); and
    - Dishonest (2%).

***The value-add of lenders in borrower experiences with payday lending is evident and contributes to borrower satisfaction.***

- Hearing their payday lender explain the loan terms in his or her own words was by far, the most helpful factor in borrowers' decision to take out a payday loan (43%).
    - Other factors found helpful by small minorities of borrowers include reviewing:
        - A copy of the contract (14%);
        - Explanatory signs posted on office walls (12%);
        - A handout or disclosure document (3%); and
        - The company website (3%).
    - One-quarter (24%) of borrowers say that none of these factors were most helpful in their decision to take out a payday loan.
- 97% of borrowers agree that their payday lender clearly explained the terms of the loan to them, including nearly nine in ten (88%) who strongly agree.
- Among borrowers who indicated being at least somewhat satisfied with their recent payday loan experience:
    - Four in five (81%) cite their lender treating them with respect; and
    - Three in four (75%) cite their lender being honest as reasons for their satisfaction.

*Attitudes and Views on Government Regulation*

***The consensus among borrowers is that the government should allow them to make their own choices when it comes to their finances.***

- More than nine in ten borrowers agree that:
    - It should be their choice whether or not to use payday lending, not the government's choice (95%); and
    - They should have the ability to make their own financial decisions without government interference (94%).
- Slightly fewer (88%) feel that they should be able to decide how often they take out a payday loan and not be limited by government restrictions.
- One in five (21%) borrowers agree that the government should impose tighter restrictions on payday loans, even if that means it would be more difficult for them to obtain a payday loan (77% disagree).

***A majority of borrowers are opposed to most potential government regulations that would affect payday loan customers, however some regulations do receive borrower support.***

- Two-thirds of borrowers oppose potential government regulations that would:
    - Require credit-bureau checks of payday loan customers before they are allowed to borrow money (64%); and
    - Restrict the number of loans customers can take out in a year (63%).
- However:
    - Three in five (59%) borrowers favor the government setting limits on the dollar amount of money customers can borrow at one time; and
    - Two in five (41%) favor the government restricting the number of times a customer can renew or extend a loan.

# Appendix

*Instructions Sent to Member Companies for Sample Pull*

CFSA has commissioned Harris Interactive, a leading research firm best known for The Harris Poll, to conduct a survey among its members' payday loan borrowers. The results from this research will be used in press materials to demonstrate the benefits of payday lending for CFSA customers and to refute other research in the public domain that has shed a negative light on payday lending as a whole.

Ultimately, a minimum of 1,000 payday loan borrowers will be interviewed by telephone, randomly selected from a compiled database of borrowers from all participating companies within CFSA. We are asking each participating member company to provide a comprehensive list of all of their borrowers who meet the following criteria:

1. Took out an initial two-week, due-on-payday loan from a brick-and-mortar location;
2. Had an original loan amount less than or equal to $700;
3. Made final repayment of the loan, including all rollovers, between July 1, 2013 and August 15, 2013, with a zero balance presently and for at least 14 days; and
4. Located in any state in which two-week, due-on-payday loan is lawfully available under any borrower-state regulatory scheme, except Virginia and Colorado. See list of states that should be included below.

Once these customers have been identified, Harris requires these lists to be delivered in Microsoft Excel file format. Within the file, each row should contain information unique to individual customers, and each column should be designated to hold a particular variable. All columns should be labeled with the variable name. Variables to include for each customer (one per column) are:

- ✓ Title (e.g., Mr., Ms., Dr.)
- ✓ First name
- ✓ Last name
- ✓ Zip code of store location (five digits only)
- ✓ Home telephone number (if known – ten digits with no dashes or spaces in between)
- ✓ Mobile telephone number (if known – ten digits with no dashes or spaces in between)
- ✓ Date most recent loan was initiated (MM/DD/YYYY)
- ✓ Date most recent loan was paid off (MM/DD/YYYY)
- ✓ Original amount of most recent loan (whole dollars only)
- ✓ Principal amount outstanding at time of last repayment (whole dollars only)
- ✓ D/b/a name of lender with whom borrower dealt (i.e., name borrower will recognize).

Customer list files should be labeled as "CFSA_Company name_Customer List_date" and delivered via email, with the file name in the subject line, directly to Andrea Pieters, a researcher at Harris who is working on this survey. Her email address is apieters@harrisinteractive.com and you can contact her with any questions via email or phone at 212.539.9515.

All data provided to Harris or derived by Harris from this survey will be held in confidence in accordance with a comprehensive Confidentiality and Data Security Agreement dated June 10, 2013 between Harris and CFSA.

States to Include:

1. Alabama
2. Alaska
3. California
4. Delaware
5. Florida
6. Hawaii
7. Idaho
8. Illinois
9. Indiana
10. Iowa
11. Kansas
12. Kentucky
13. Louisiana
14. Michigan
15. Minnesota
16. Mississippi
17. Missouri
18. Nebraska
19. Nevada
20. New Mexico
21. North Dakota
22. Ohio
23. Oklahoma
24. Rhode Island
25. South Carolina
26. South Dakota
27. Tennessee
28. Texas
29. Utah
30. Washington
31. Wisconsin
32. Wyoming

*Respondent Demographics*

| | Total n=1,004 |
|---|---|
| **Gender** | |
| Male | 37% |
| Female | 63% |
| **Age** | |
| Mean | 49.6 |
| **Race/Ethnicity** | |
| White | 53% |
| Black/African American | 23% |
| Hispanic | 13% |
| Mixed race | 4% |
| Native American or Alaskan Native | 2% |
| Asian or Pacific Islander | 2% |
| Some other race | 2% |
| Decline to answer | 2% |
| **Household Income** | |
| Less than $25K (Net) | 34% |
| $25K to less than $50K (Net) | 36% |
| $50K or more (Net) | 25% |
| Decline to answer | 5% |
| **Education** | |
| High school or less (Net) | 41% |
| Some college/Associates (Net) | 38% |
| College degree or more (Net) | 20% |
| Decline to answer | 1% |

| | Total n=1,004 |
|---|---|
| **Employment Status** | |
| Employed full time | 54% |
| Employed part time | 9% |
| Self-employed | 3% |
| Not employed, but looking for work | 3% |
| Not employed, and not looking for work | 1% |
| Retired | 14% |
| Not employed, due to disability or illness | 13% |
| Student | 1% |
| Stay-at-home spouse or partner | * |
| Decline to answer | 2% |
| **Marital Status** | |
| Never married | 24% |
| Married/Living with partner (Net) | 43% |
| Married or civil union | 40% |
| Living with partner | 3% |
| Divorced | 20% |
| Separated | 4% |
| Widowed | 8% |
| Decline to answer | 2% |

*Borrower Profile*

| | Total n=1,004 |
|---|---|
| **Number of loans taken out from store in past year** | |
| 0 | * |
| 1 | 9% |
| 2 | 10% |
| 3 | 11% |
| 4 | 9% |
| 5 | 7% |
| 6-7 | 16% |
| 8-10 | 16% |
| 11-20 | 13% |
| 21+ | 6% |
| Mean | 7.6 |
| **Initial amount of loan repaid past summer** | |
| $200 or less (Net) | 23% |
| $201-$499 (Net) | 49% |
| $500 or more (Net) | 28% |
| Mean | $332.20 |
| **Self-rating of current financial situation** | |
| Excellent/Good (Net) | 40% |
| Excellent | 8% |
| Good | 32% |
| Fair/Poor (Net) | 60% |
| Fair | 43% |
| Poor | 17% |

| | Total n=1,004 |
|---|---|
| **Self-rating knowledge of personal finance** | |
| A/B (Net) | 56% |
| A | 16% |
| B | 40% |
| C | 36% |
| D/F (Net) | 7% |
| D | 6% |
| F | 2% |
| **Paying bills and debt classification** | |
| No debts in collection (Net) | 76% |
| You pay all of your bills on time and have no debts in collection. | 33% |
| You sometimes miss a payment but have no debts in collection. | 23% |
| You struggle to pay your bills every month but have no debts in collection. | 20% |
| You struggle to pay your bills every month and are getting calls from debt collectors. | 16% |
| You are seriously considering filing for bankruptcy or have filed for bankruptcy in the past three years. | 5% |
| You are not involved at all in any financial decisions including how money is spent in your household. | 1% |

4/29/15

[redacted]

AS THE PASTOR OF A SMALL BUT VITAL CHURCH IN ENTERPRISE, AL SHORT-TERM LOANS HAVE BEEN A WAY FOR US TO SURVIVE THE PEAKS & VALLEY'S ASSOCIATED WITH DEPENDENCY ON CHARITABLE DONATIONS TO FUND OUR WORK. SINCE 2008, OVER 4,200 PEOPLE HAVE CALLED OUR CHURCH HOME. WE HAVE DISTRIBUTED OVER 100,000 POUNDS OF FOOD TO THE UNDER-RESOURCED IN OUR COMMUNITY, WHO MAKE UP A LARGE PERCENTAGE OF OUR CONGREGATION. AS A CHURCH, OUR OPTIONS FOR OUTSIDE FINANCING ARE VERY LIMITED. ACCESS TO SHORT-TERM LOANS IS CRITICAL FOR US TO CONTINUE THE WORK OF THE MINISTRY.

SINCERELY,

[redacted]

5/1/15

TO WHOM IT MAY CONCERN,

I, [redacted], AM THE FOUNDER AND OWNER OF [redacted]. MY SECURITY COMPANY OFFERS SECURITY/ PROTECTION SERVICES FOR HOME, BUSINESS, PROPERT FAMILY, AND INDIVIDUALS. MY COMPANY OPERATES IN ENTERPRISE, AL 36330. I HAVE BEEN WORKING ON THIS BUSINESS SINCE I RETIRED FROM THE US ARMY (ACTIVE) AFTER 21 yrs AND 4 days. AS A WHOLE I HAVE OVER 25-50 EMPLOYEES. MY SHORT-TERM LOAN HAS ALLOWED MY THE FUNDS TO GO TO SCHOOL, ENDURE CHILD CUSTODY BATTLES FOR MY CHILDREN, AND GET MY BUSINESS OFF THE GROUND. I WAS TURNED DOWN SEVERAL TIMES, UNTIL LENDING BEAR AIDED ME THROUGH A SHORT BUSINESS. I WAS ABLE TO GET LICENSES, APPROVALS, AND EQUIPMENT.

P.2

BECAUSE LENDING BEAR (AND SIMILAR SHORT-TERM LOAN ORGANI~~Z~~ATIONS) EXIST.

WITHOUT SHORT-TERM LOANS, I WOULD HAVE LOSS MY ABILITY TO GET A HOME, VEHICLE, AND BASIC LIVING NECESSITIES. I FEEL THAT SHORT-TERM LOANS ARE NECESSARY FOR MYSELF AND OTHER SMALL BUSINESS OWNERS, WHO DON'T HAVE GREAT CREDIT OR SEVERAL ASSETS. WITHOUT THIS VITAL SOURCE OF FUNDING SEVERAL ORGANIZATIONS, ESPECIALLY IN RURAL, LESS DEVELOPED AREAS AND NEW, FUTURE BUSINESS PERSONNEL WOULD NOT BE ABLE TO SUPPORT THEIR FAMILIES, EMPLOYEES, COMMUNITIES, AND SO FORTH. THANK YOU FOR YOUR SUPPORT, ESPECIALL FOR A SINGLE FATHER, RETIRED/DISABLED VETERAN, AND SMALL BUSINESS OWNER.

SINCERELY,

[redacted]

[redacted]

4-27-10

My name is [redacted] and I own

a small cleaning service in Enterprise, AL

called [redacted]. The payday advances help fund me, in my cleaning supplies, without these services I would not be able to purchase products to provide services to my clients. Payday advances are quick and easy and convenient in my time of need, without these services I have no other alternatives for funding

[redacted]

[redacted]

5/1/15

My name is [redacted] and I own a small contruction [redacted] handy man businesses Enterprise, AL. My company employs 2 men. I used a title pawn to purchase supplies and to make payroll I receive pay on completed jobs. If short term loans are banned in alabama I will have no other resources to finance my business.

Sincerely,

[redacted]

[redacted] 5-5-15

I [redacted], owner of [redacted].
We currently operate in Dothan and surroundi
area. I currently have 3 employee that work for
me. Being able to use Lending Bear was an
great experience and very much helpful. Being
that I have a small business; getting loan
are very hard to get. I really don't know
what would have happened to my business if
Lending Bear was not able to help me.

Thank you.

[redacted]

Mr. Brian Lynn, Speedy Cash/Lending Bear
I am self employed. I clean
houses. I need to borrow money
from you and your company.
To buy supplies to clean.
I have three children, I keep
My nephew kids. I have temporary
Guardship for 5 years. I get
no child support from either
parents. So I clean houses to
help take care of them. The state
only gives me $365.00 a month
to take care of the kids. My Business
is [redacted]. I thank you
very much for lending me money.
I have borrowed money from you.
at least 3 other times on
my van. and paid you all
back. again I want to thank
you from my heart. So I can
Buy supplies to clean the
houses. and take care of the
three children.

Thank you very much,

[redacted]

May 7, 2015

To Brian Lynn, President

Lending Bear

12276 San Jose Blvd., Ste. 534

Jacksonville, Florida 32223

Dear Mr. Lynn,

My name is [redacted] and my name was submitted to the CFPB to be a small entity representative, but I was not chosen by the committee to voice my concerns about the proposed regulations affecting the short-term lending industry. I am writing to you in hopes that my voice among many others will be heard in Washington D.C.

I am the owner of two small businesses in Naples, Florida. I am an Income Tax preparer and I have a small boutique at which I sell Quinceanera dresses and party dresses for girls up to the age of 15. My businesses are [redacted] Income Tax Preparer and [redacted]. I am registered to prepare taxes with the Internal Revenue Service. I have been preparing tax returns for approximately 14 years and have had my small business for 8 years now. I have one employee who is with me most of the year. My work is seasonal. Once tax season is over my business suffers greatly due to the decrease in clientele. Although the IRS is open year round there are not many tax returns to prepare after the April 15th deadline. My office still remains open to people who may have problems to resolve with the IRS. During the off season I concentrate myself on the boutique selling party dresses.

Since 2011 I have been using the products of short-term lenders to make ends meet. I use the services of Advance America here in the suburb of Golden Gate which is where my business is located. There are many many small business owners like myself here. I consider myself a working class citizen and I am middle class in American society. I use the services of businesses like yours to keep surviving until the next payday. As a business owner I am the last one who gets paid, and sometimes I need a small loan just to get by until the next two weeks. The total amount of money I may need may be less than $500, sometimes I may need more, but never is it enough for a bank to help me out. Small business owners are affected tremendously when it comes to borrowing from banks mainly because we don't really need to borrow a large amount of money, some of us may have bad credit and the banks do not want to deal with small business like mine. Let's keep in mind that a small business is defined to be 50 or less employees. In my situation and as in many other small businesses, we are a one to two person company. We handle every aspect of our businesses. I use short-term loans to pay bills at the office such as light, cable and I use the money to buy supplies. At the beginning of every tax season there are startup costs, but guess what?? Christmas just passed and I am out of cash and my credit cards are maxed out, what do I do? I go to my local short term lender and get a short-term loan to get my office supplies, new computer, toners for the copiers and to pay bills until tax season starts. If I did not have access to short-term loans my business would suffer greatly because I only need a little to keep my business going. If I am not able to make ends meet my clients will go somewhere else. I would not be able to function as a business without a computer, copier, fax and supplies to run them. I need an employee occasionally and I may not get paid till weeks later. These are the reasons I need and use these types of products and services.

I speak on behalf of small businesses such as mine that have 5 or less employees. We need a voice that will be heard in Washington D.C. to protect our livelihoods. Yet there are multi-million dollar financial institutions that offer "services and products" too to large companies. We are not those large companies. We are who we are. Local business owners that enjoy what we do for a living and help out our communities. Without the services and products of short-term lenders my small business would suffer greatly to the point that I may have to close. And at my age I do not want to have to make a career change. I love what I do, it is my livelihood.

My sincerest thanks to you Mr. Lynn

[redacted]

# PAYDAY LOAN—SINGLE PAYMENT

**After reviewing the terms of the loan, you are not required to choose this loan, and may consider other borrowing options, including those shown on Page 2 of this document.**

| | |
|---|---|
| **Borrowed Amount** | **$500.00** |
| Interest<br>Contract Rate: 10% | $2.40 |
| Fees | $125.00 |
| **Payback Amount** | **$627.40** |

*The loan information shown here is an example and may not reflect the actual fees and interest charged to a loan provided by the lender or credit access business.*

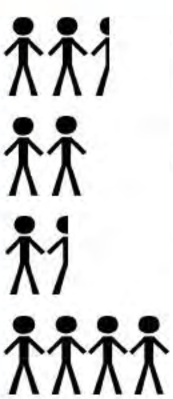
## How much will a two-week, $500 payday loan cost?

| If I pay the loan in: | I will have to pay: |
|---|---|
| 2 Weeks | $ 627.40 |
| 1 Month* | $ 754.80 |
| 2 Months* | $ 1,009.60 |
| 3 Months* | $ 1,264.40 |

**Payment amounts are approximated.*

## How Long Could It Take to Repay a Loan?

***Of 10 people who take out a new payday loan...***



**2 1/2** people will pay the loan on time and in **1 payment** *(typically two weeks)*

**2** people will **renew** the loan **1 or 2 times**

**1 1/2** people will **renew** the loan **3 or 4 times**

**4** people will **renew** the loan **5 or more times**

*Adapted from: Bertrand & Morse, "Information Disclosure, Cognitive Biases and Payday Borrowing", Milton Friedman Institute for Research in Economics (Oct. 2009).*
*Data provided above is compiled from a 2008 national survey; repayment patterns may be different.*

## Ask Yourself...

- **Is it necessary for me to borrow the money?**
- **Can I afford to pay this loan back <u>in full</u> in two weeks?**
- **Will I be able to pay my regular bills and repay this loan?**
- **Can I afford the extra charges, interest, and fees that may be applied if I miss or fail to make payment?**
- **Are other credit options available to me at this time?**

**Turn Page**

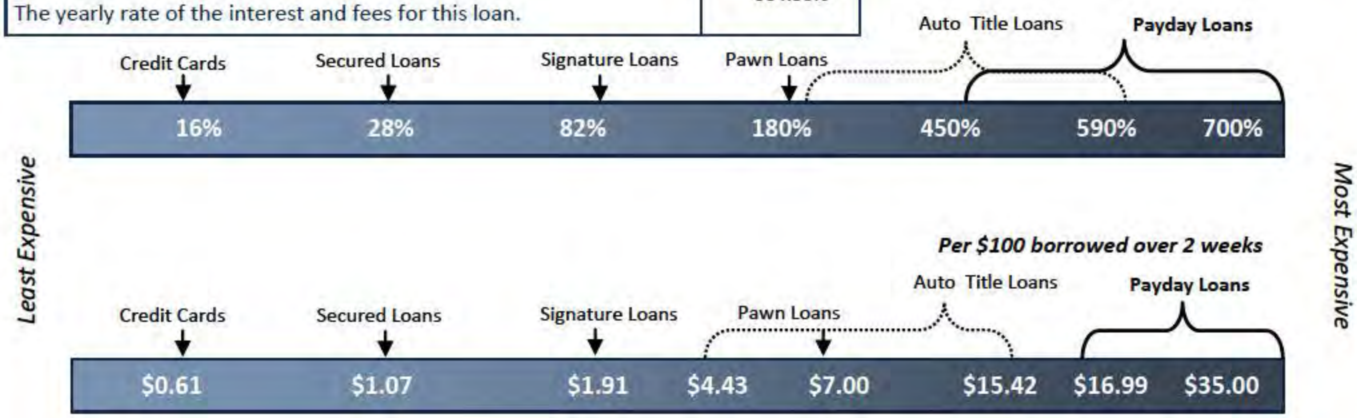
# How Does a Payday Loan Compare to Other Options?

| | |
|---|---|
| **Cash Advance / Borrowed Amount** | $500.00 |
| **Interest Payment**<br>The amount you will pay in interest for the loan. | $2.40 |
| **Total of Fees**<br>The amount you will pay in fees for this loan. | $125.00 |
| **Total of Payments**<br>The amount you will pay if you repay the loan on time. | $627.40 |
| **Annual Percentage Rate (APR)**<br>The yearly rate of the interest and fees for this loan. | 664.30% |

***Loan Calculation***

***&***

***Cost Comparison***




***Average Amount of Interest & Fees***

**Payday loans are cash advances provided to a borrower to meet financial needs. As a borrower, you will be required to sign a loan agreement that tells you the amount you have requested to borrow, the annual percentage rate (APR) for that loan, the amount of interest and fees that may be charged for that loan, and the payment terms of the loan. Payday loans may be one of the more expensive borrowing options available to you.** ***Payday loans may also be referred to as cash advance, delayed deposit or deferred presentment loans.***

## Complaint or Concern?

If you would like to file a concern or complaint regarding a payday loan, contact the

**Office of Consumer Credit Commissioner**
**800-538-1579**

**Looking for Information on Budgeting, Personal Savings, Credit Card Management, or other personal money management skills?**

**Visit the OCCC's Financial Literacy Resource Page**

http://www.occc.state.tx.us/pages/consumer/education/

## Additional Information

- ♦ You may be required to write checks or authorize withdrawals from personal checking accounts to cover payments for the loans.
- ♦ You can compare all loan options available and select the option that is best for you.
- ♦ You can avoid extra fees and loan renewal costs by not missing payments and by repaying loans on time.

**OFFICIAL STATE OF TEXAS NOTICE:** This consumer disclosure has been provided in accordance with Section 393.223 of the Texas Finance Code.

***Form Rev: December 2012***

# AUTO TITLE LOAN—SINGLE PAYMENT

**You Can Lose Your Car**

**If you miss a payment or make a late payment, your car can be repossessed.**

**After reviewing the terms of the loan, you are not required to choose this loan, and may consider other borrowing options, including those shown on Page 2 of this document.**

| | |
|---|---|
| Borrowed Amount | |
| Interest<br>Contract Rate: % | |
| Fees<br>Includes a one-time $ certificate of title fee. | |
| Payback Amount | |

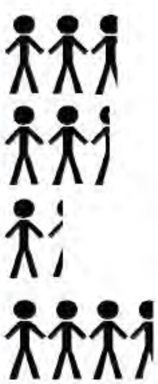
*The loan information shown here is an example and may not reflect the actual fees and interest charged to a loan provided by the lender or credit access business.*

## How much will a/an $ auto title loan cost?

| If I pay the loan in: | I will have to pay: |
|---|---|
| 2 Weeks | |
| 1 Month | |
| 2 Months | |
| 3 Months | |

## How Long Could It Take to Repay a Loan?

***Of 10 people who take out a new auto title loan…***



**2.7** people will not renew their title loans

**2.4** people will **renew** the loan **1 or 2 times**

**1.3** people will **renew** the loan **3 or 4 times**

**3.6** people will **renew** the loan **5 or more times**

*Adapted from: Tennessee Department of Financial Institutions, "The 2010 Report on the Title Pledge Industry", (Mar. 2010). **Data based upon title pledge agreements with a single-payment term; repayment patterns may vary.***

## Ask Yourself...

- **Is it necessary for me to borrow the money?**
- **Can I afford to pay this loan back in full in one month?**
- **Will I be able to pay my regular bills and repay this loan?**
- **Can I afford the extra charges, interest, and fees that may be applied if I miss or fail to make payment?**
- **Are other credit options available to me at this time?**

Turn Page

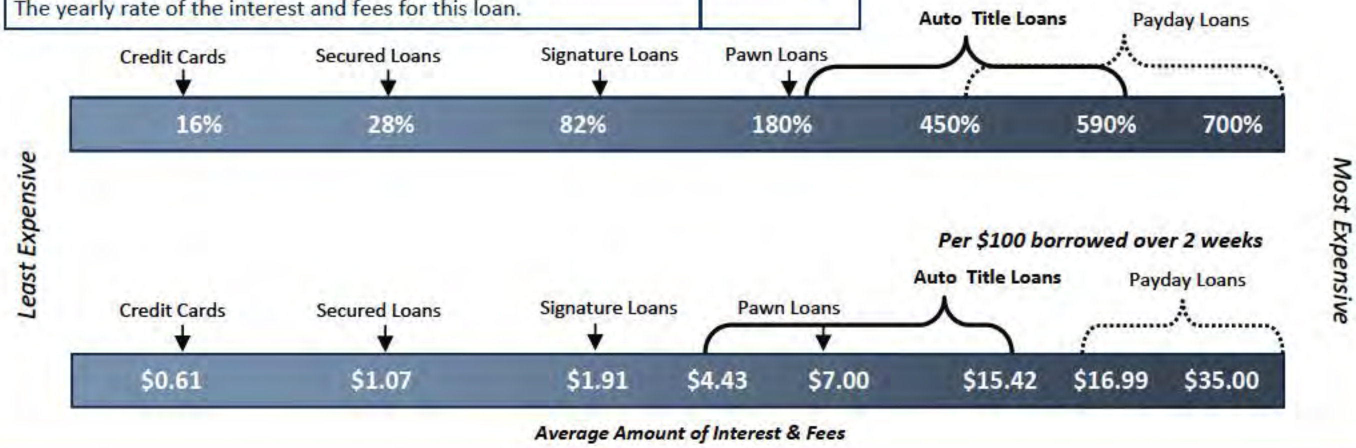
# How Does an Auto Title Loan Compare to Other Options?

| | |
|---|---|
| **CASH ADVANCE / BORROWED AMOUNT** | |
| **INTEREST PAYMENT**<br>The amount you will pay in interest for the loan. | |
| **TOTAL OF FEES**<br>The amount you will pay in fees for this loan. | |
| **TOTAL OF PAYMENTS**<br>The amount you will pay if you repay the loan on time. | |
| **ANNUAL PERCENTAGE RATE (APR)**<br>The yearly rate of the interest and fees for this loan. | % |

***Loan Calculation***

***&***

***Cost Comparison***




**Auto title loans are cash advances provided to a borrower to meet financial needs. As a borrower, you will be required to use your car as collateral for the loan. You will be required to sign a loan agreement that tells you the amount you have requested to borrow, the annual percentage rate (APR) for that loan, the amount of interest and fees that may be charged for that loan, and the payment terms of the loan. Auto title loans may be one of the more expensive borrowing options available to you.** ***Auto title loans may also be referred to as car title loans, title loans, or title pledges.***

## Complaint or Concern?

If you would like to file a concern or complaint regarding an auto title loan, contact the

**Office of Consumer Credit Commissioner**

**800-538-1579**

**Looking for Information on Budgeting, Personal Savings, Credit Card Management, or other personal money management skills?**

**Visit the OCCC's Financial Literacy Resource Page**

http://www.occc.state.tx.us/pages/consumer/education/Financial_Literacy_Resources.html

## Additional Information

- You may be required to write checks or authorize withdrawals from personal checking accounts to cover payments for the loans.
- You can compare all loan options available and select the option that is best for you.
- You can avoid extra fees and loan renewal costs by not missing payments and by repaying loans on time.

**OFFICIAL STATE OF TEXAS NOTICE:** This consumer disclosure has been provided in accordance with Section 393.223 of the TEXAS FINANCE CODE.

***Form Rev: December 2012***

In addition to the items above, Mr. Lynn included the following items in his written feedback to the Panel:

1. Jacob Goldin and Tatiana Homonoff, Consumer Borrowing After Payday Loan Bans (November 2013).
2. Veritec Solutions, Report on Virginia Payday Lending Activity for the Year Ending December 31, 2009 (prepared on behalf of the Bureau of Financial Institutions State Corporation Commission) (February 16, 2010).
3. Donald P. Morgan and Michael R. Strain. Payday Holiday: How Households Fare After Payday Credit Bans, Federal Reserve Bank of New York Staff Report no. 309 (November 2007, rev. February 2008).

600 Monrovia Drive • Ruston, LA 71270 • Ph 318-255-9154 Fx 318-255-9153

May 12, 2015

*Via Email*

Consumer Financial Protection Bureau
SBREFA Payday Lending Review Panel
CFPB_payday_SBREFA@cfpb.gov

Re: Written Comments from Small Entity Representative ("SER") Regarding Potential Rulemakings for Payday, Vehicle Title and Similar Loans

To Whom It May Concern,

I am the founder and managing partner of Thrifty Loans, LLC ("Thrifty"). Thank you for giving us the opportunity to participate as a SER in the SBREFA panel and provide our input with respect to the Consumer Financial Protection Bureau's (the "CFPB") proposed rulemaking regarding payday, vehicle title and similar loans ("Payday Loans"). My comments with respect to the CFPB's proposals boil down to the following two important points:

1) If implemented, the CFPB's proposals will put Thrifty (and likely many similar-situated businesses across the country) out of business; and

2) If implemented, the CFPB's proposals will directly and substantially harm the very consumers that the CFPB is mandated to protect.

As a threshold issue, the CFPB has not demonstrated a need for new Federal regulation of Payday Loans, because it has not shown that consumers are being harmed by these loans or that existing state and Federal regulatory regimes do not effectively protect consumers while encouraging robust competition among lenders.[1] The CFPB has not relied on any empirical

[1] For example, the CFPB and the Federal Trade Commission (the "FTC") already have enforcement authority over lenders that originate Payday Loans, and both agencies have in fact exercised this authority against "bad actors" in the industry (in some cases resulting in substantial fines). If Payday Loans are inherently harmful to consumers and all payday lenders are therefore engaging in predatory lending, then why have the CFPB and the FTC not pursued more enforcement actions to protect consumers? The small number of CFPB and FTC enforcement actions is

studies finding that Payday Loans harm consumers nor has the agency shown any willingness to work with existing, effective state laws. While the CFPB has proposed this rulemaking for the purpose of protecting consumers, adoption of the proposals would instead result in oppressive financial situations for thousands of consumers across the country that need the access to credit that our industry provides. The CFPB's proposal is based on the unfounded assumptions that (1) lenders in our industry do not have the consumers' interests in mind, (2) consumers need a "Big Brother" to micromanage their financial decisions, and (3) existing state regulatory schemes do not adequately protect consumers and regulate lenders. I believe these assumptions are incredibly off-base. Based on my experience in the industry: (1) lenders treat their customers with respect and make no attempt to prey on unsuspecting consumers; (2) the vast majority of consumers (a) are well-informed of the financial options available to them, (b) enjoy the simplicity of the product, (c) understand the nature of the credit they receive, and (d) are grateful to us for helping meet their financial needs; and (3) state regulators have a strong presence in the industry and actively protect consumers' interests while fostering fair and transparent lending practices that do not unnecessarily restrict consumers' access to credit.

**Company Overview**

Thrifty operates in Louisiana and Texas. We have been in operation in Louisiana since 1998, where we have 12 stores in small and rural towns across North Louisiana. In Louisiana, we make single payment payday loans up to $350 and title loans up to $1,400, which is done in compliance with Louisiana law. We have operated in Texas since 2006 and currently have 8 locations in East Texas. We are a regulated "credit access business" under Texas law. In both states, we take pride in how our customers are treated through the underwriting and approval (or denial) process. As evidenced by our low occurrence of "bad debt"[2] and our relatively high turndown rate,[3] our experience proves that Thrifty only makes loans to customers who have the ability and willingness to repay.

Thrifty has 32 employees, almost half of whom have been with the company for over five years. Our annual payroll exceeds $1,200,000. We strive every day to be a great workplace for our employees and a great service provider for our customers. All of our employees live in the communities they serve, know their customers very well and enjoy helping them meet their financial needs. This fact is evidenced by the extremely low volume of customer complaints received by Thrifty or our state regulators.[4] This is also evidenced by our customer loyalty and

additional evidence that the comprehensive regulatory scheme already in place – primary state regulation supplemented by Federal enforcement power against bad actors – is already protecting consumers adequately.

[2] Less than 2.5 percent of all loan revenue in 2013 and 2014 were bad debt.

[3] We turned down over 51 percent of loan applications received from November 2014 through the end of April 2015.

[4] Out of millions of customer interactions each year, the Louisiana Office of Financial Institutions has received fewer than 200 total complaints of any kind over the past four years with respect to all payday lenders doing business in Louisiana. Additionally, the Texas Office of Consumer Credit Commissioner (the "OCCC"), has received complaints regarding Texas payday lenders doing business in Texas on less than 0.0003 percent of customers serviced and barely 0.0001 percent of total loans. These facts disprove the CFPB's assumptions that consumers are harmed by Payday Loans.

the very high percentage of new customers that are referred to us by existing customers. We believe our customers choose Thrifty primarily because of convenience (*i.e.*, the superior customer service and customer experience that we provide) and confidentiality. As discussed below, the CFPB's proposed regulations, if adopted, would destroy our ability to maintain these qualities for our customers.

**Responses to CFPB Proposals and Questions Raised**

*Ability to Repay Requirements*

The rigid, formulaic approach of the CFPB's proposed rules is not realistic in our industry and places crippling administrative and financial burdens on Thrifty and similarly-situated businesses. Thrifty simply would not be able to stay in business in light of the administrative burden of the proposal's methods of verifying a consumer's income, the unreasonable expense associated with using third party services to verify other financial obligations of applicants, and the difficulty and expense associated with attempting to discern a customer's borrowing history. Based on the CFPB's own calculations of the new and additional expenses associated with the proposal and expected decrease in volume of Payday Loans, Thrifty's revenues would be reduced by approximately 70 percent. However, the CFPB's projections are extremely conservative, and our actual costs of complying with the proposal would be crippling and catastrophic (considering direct costs related to independent verification of data for each loan request we evaluate, hiring and training new personnel, and upgrading and maintaining appropriate software and other infrastructure). Moreover, the CFPB has not considered the fact that the costs associated with determining a consumer's ability to repay are incurred for all applications, meaning any loan application that is denied results in expenses that are not recouped by loan revenue. As discussed above, we turn down a significant number of potential loans based on our current underwriting criteria, so this fact would be particularly damaging to Thrifty. If the CFPB's proposals are adopted, Thrifty will lose money on every loan we make.

These difficulties are further exacerbated by the fact that Louisiana law prohibits us from passing through any of these costs to our Louisiana customers. Even if we could pass through the costs, this increase would only further "harm" the consumer. Instead, existing practices within the framework of state regulatory schemes are the best method for determining a customer's ability to repay – all successful lenders underwrite their loans with the expectation that they will avoid bad loans. Thrifty uses its own money to make its loans in Louisiana, so it has a vested interest in participating with the customer to ensure that the loan is repaid. The CFPB has not provided any meaningful support for a contention that a vast majority of lenders making Payday Loans do not already successfully gauge a borrower's ability and willingness to repay; without undertaking rigorous research and analysis, the CFPB has advanced the onerous requirements set forth in the proposal, which seems very irresponsible to me.

*Limitation on Sequencing or Rollovers*

The proposal's presumption that rollovers are harmful to consumers is an incorrect, ill-founded conclusion that the CFPB has reached without conducting appropriate research. In fact, limiting the number of rollovers and requiring a 60-day "cooling-off" period after a certain number of consecutive loans will have a much more harmful effect on consumers than Thrifty's current practices. The government is not in the best position (or in any position) to determine on behalf of consumers whether they should use credit (and which form) to meet their financial needs after a certain number of extensions. Instituting a mandatory cooling-off-period would stifle our ability to meet a customer's financial needs at times when the customer needs our help the most. Moreover, the proposal's presumption of inability to repay would be very harmful to consumers, as the circumstances giving rise to the presumption are often the very reasons why customers reach out to us for rollovers (with the intent and ability to satisfy the obligation in the near future). Similarly, the requirement to conduct a new ability-to-repay analysis and find a change in circumstances would severely limit consumers' access to much-needed credit, and would add further unnecessary costs to our operation.

*Alternative Requirements*

The CFPB sets forth three alternative proposals that it says would reduce the ability-to-repay requirements set forth in the CFPB's primary proposals.[5] These proposals are not appreciably different from the primary ability-to-repay proposal, and still present the same problems for most lenders, especially those that are small businesses. Specifically, if any of these proposals were promulgated as a regulation applicable to makers of Payday Loans, Thrifty would still have to perform additional verification of a customer's income and borrowing history in a manner very similar to the CFPB's primary proposal, so our cost and administrative burden would still be prohibitively high. Additionally, each of these alternative proposals would limit the fees and rates we may charge, further reducing our ability to recoup any of the expenses associated with compliance. Similarly, the CFPB's proposal to require tapering off of indebtedness in subsequent extensions ignores practical economic realities and would substantially harm consumers while not solving any established problem. Lastly, the CFPB has not demonstrated that any of the proposed dollar limitations, interest rate restrictions or other proposed parameters amount to anything more than arbitrary and capricious figures pulled out of thin air.

*Payment Collection Practices*

The alleged consumer harms cited by the CFPB (substantial fees, unanticipated collection attempts and account closures) to support its proposed requirements for collection activities – *i.e.*, prior notification and attempt limitation measures – are simply not realistic concerns for our customers based on our practices and the existing legal and regulatory framework. Thrifty only charges one NSF fee per cycle to a customer regardless of the number of times Thrifty attempts to collect a loan by processing a debit item on an account, so we have no motivation to make multiple collection attempts in an effort to generate fee income (in fact, the opposite is true as our bank costs and ACH fees increase if we make multiple attempts to collect funds from a customer's bank account). Our customers receive more than adequate notification of what to expect with respect to account draws when they agree to pay via ACH or other electronic means.

[5] The CFPB proposed a short-term debt proposal, the NCUA model, and a proposal based on 5 percent payment-to-income.

We have received very few, if any, complaints from our customers with respect to notification of account draws. Conversely, many of our customers specifically request that we not provide any type of notification of an upcoming draw for confidentiality purposes or other reasons specific to the customer. Further, the costs associated with this requirement would be devastating for a small business like Thrifty – it would require us to significantly increase our staff or alternatively contract with a third party to meet the administrative demands associated with the notice requirement, in addition to the actual hard costs of each notification.

In addition, the CFPB's proposal to limit the number of attempts a lender can make to collect a loan electronically is not warranted in light of existing NACHA rules, which provide that a participant will lose access to the ACH network if it has a certain amount of returned items. In other words, lenders like Thrifty have no incentive to attempt multiple collection attempts without a legitimate, good faith basis for the attempt. The CFPB has not shown that there is any level of consumer abuse with respect to the number of collection attempts that would warrant this regulation.

*Compliance Measures: Other Regulations*

The CFPB's proposals do not consider the effectiveness of existing state laws that have already proven to be sufficient in protecting consumers and regulating lenders. I encourage the CFPB to analyze state regulatory regimes such as Louisiana and Texas (along with many other states) that provide for meaningful and robust safeguards against predatory lending practices while also recognizing the need to provide consumers with access to financial products that meet their needs. For example, the CFPB should consider the disclosure system implemented in Texas, which has been positively received by lenders and consumer advocacy groups alike, instead of the approaches currently under consideration. In Texas, regulated credit access businesses are required to make very specific disclosures regarding a loan product, including possible alternative financial solutions that may be available to the consumer, before the customer completes an application, and the customer must affirmatively acknowledge receipt of the disclosures. The OCCC and other participants in the industry invested considerable time and resources (including use of focus groups and implementation of feedback from all interested persons) into assuring that customer disclosure forms clearly and effectively communicate the cost of credit to potential borrowers.[6]

In order to overturn established state regulatory regimes, the CFPB should be required to show (based on empirical data through a transparent process) that state laws are failing to protect consumers and that regulated lenders are getting away with predatory lending without consequence from existing state regulators. At this point, the CFPB has not even begun to meet this obligation. Even if it could carry the burden, it would then need to show that its proposals would be beneficial to consumers. As discussed in this letter, that is simply not the case, as virtually every aspect of the CFPB's proposal would ultimately harm consumers, while simultaneously forcing many small businesses such as Thrifty out of business.

[6] The form disclosures are available at http://occc.texas.gov/industry/cabs/bulletins-disclosures.

*Impact on Small Business Owners*

The CFPB's proposals would have a catastrophic effect on small business owners across the country. In addition to forcing many small business lenders to close their doors, hundreds of thousands of microbusinesses and sole proprietorships around the country (such as carpet cleaners, movers, lawn service companies, retailers, photographers, caterers and many other similar entities) would lose their access to much needed credit, forcing many of these companies out of business.[7] Some of Thrifty's loans are made to individuals that own these types of microbusinesses, and they undoubtedly employ some of the funds to keep their businesses running and to continue serving their customers. These microbusinesses are vital to the economies of the small communities in which they operate, and the loss of access to credit would have further effects on many others within those communities.

**<u>Conclusion</u>**

Thank you again for giving me the opportunity to participate in this important process. I hope that the information contained in this letter is helpful as the CFPB works through this process. I strongly believe that the CFPB's proposals are unnecessary and are not supported by any empirical facts or data. Furthermore, it is a simple fact that, if enacted, the CFPB's proposals would be the death sentence for Thrifty and many similarly-situated small businesses. More importantly, the CFPB's proposal would serve as a prime example of the "law of unintended consequences," because the consumers which the CFPB is mandated to protect would instead be harmed the most severely.

Sincerely,

Mickey Mays

Mickey Mays
Managing Partner, Thrifty Loans, LLC

[7] I have enclosed letters from just a few of Thrifty's customers that are representative of many of our customers that would be harmed if the CFPB's proposals are adopted. It would be possible to gather many more letters of support from customers if not for the short timeframe SERs were given to provide written comments.

[redacted]

May 7, 2015

I have a small cleaning service Business my business is in Ruston LA. I employ two another people, I was short of money and needed Thrifty Loan to assist me in a small loan, because I needed to buy some cleaning supplies, that really helped me out.

Sincerely,

[redacted]

[redacted]

May 7, 2015

To whom it may Concern:

I maintain a 24 hour plumbing service to those in need in the Shreveport / Bossier area. I employ one person to assist me as needed. I have utilized Thrifty loans services since 2009 to help me maintain my business. I often need to purchase supplies for my customers who are low on cash which leads me to depend upon Thrifty loans services to advance me what I need quickly to aide my clientele. Without their services, I would not have been able to continue my business.

Sincerely,

[redacted]

;9035930637 # 1/

May 7, 201

[redacted]

Tyler, TX 75702

Hello my name is [redacted] I run [redacted], with five employees. I use Texas Thrifty Loans to help with payroll, and even to buy supplies for my business. Most banks won't loan to a smaller business like mines, but when I went to Thrifty Loans I got the money that I needed the same day.

Sincerely [redacted]

5/8/15

[redacted]

Dear Ms. Jackson:

As A Patron of Thrifty Loans, I would like to thank you for The Assistance and the Customer Service you and your Company has extended to me. Because of your Financial Assistance, I was able to have the short-Term Funding needed to fund my operational Expenses.

I am very Appreciative, to you, Ms. Carolyn and Thrifty-Loans for making a difference in the Lives of so many Families in this Community.

Thank You!

[redacted] - Small Business Owner

May 8, 2015

[redacted]

Thrifty Loans & Carolyn has truly been a lifesaver for me. Working as a Mental Health Professional requires that I travel to recipients home or school. I provide counseling on a daily basis. If a crisis situation occurs, I am responsible for providing Crisis Intervention & Management. There are weeks I travel 800-1000 miles per week. Getting paid once a month, at the end of the month, can be a stretch.

This is why Thrifty Loans & Carolyn has/have been a life saver.

Sincerely,

[redacted]

[redacted]

May 8, 2015

I have had my business for almost 5years now. I asked for a loan from Thrifty Loans to buy new merchandise and they really was a blessing to me. I must say I couldn't have had it no other way than through this office. My Small business is really expanding due to the loan I received from Thirty Loan. Again thanks.

Sincerely.

[redacted]

**Luxton Corp**
**DBA Payne's Check Cashing**
727 North Main Street
Culpeper, VA 22701

May 12, 2015

*Via email*: cfpb_payday_sbrefa@cfpb.gov

Small Business Advisory Review Panel Members
On Potential Rulemakings for Payday, Vehicle, Title,
And Similar Loans
c/o Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552-0003

***Re: Written Comments of Small Entity Representative Brandon Payne***

Dear Members of the Small Business Advisory Review Panel:

I am Manager of Payne's Check Cashing in Culpeper, Virginia. After attending Virginia Tech and serving six years in the Navy, I returned to Culpeper to work for my Dad. He is an entrepreneur who has created multiple companies in his adult life and started Payne's Check Cashing 15 years ago. I run day-to-day operations for our three storefront locations in Virginia, one in Culpeper and two in Charlottesville. We offer payday loans, title loans, check cashing, money orders and bill payment services. We have 13 employees covered by a group health care plan in which our company pays 50% of the premium cost. Two of our senior managers started out as clerks. We value our employees and endeavor to provide them with quality training and opportunities for growth. All of us know our customers well and we are part of the communities we serve. We are regulated by the Virginia Bureau of Financial Institutions. We have separate licenses for payday lending and title lending and each license type is examined every 12 to 18 months.

***My Overall Comments on the CFPB Proposals and SBREFA Panel Proceedings***

I was both surprised and pleased to receive the call from CFPB, interviewing me as a candidate to serve as a Small Entity Representative for our industry's SBREFA Panel. I very much appreciated the opportunity that was extended to me—to help represent the voice of small businesses in this extremely important rulemaking process.

I did not know what to expect in the Panel proceeding. As an operator of only three stores in one state, I did not have the resources of outside counsel to interpret for me the complexities of the

CFPB's Outline of Proposals. Although I studied them often and intently during the short period of time between their release and the Panel meeting, I was not—and still am not—equipped to understand them completely or to calculate their cumulative financial impact on my business.

During the Panel discussions, I learned that I was not alone. In fact, most of the SERs felt as I do, that the CFPB did not provide us with data that specifically measures the proposal's impact on small businesses. Operating in the state of Virginia, which has one of the most complicated state regulatory frameworks for payday lending in the country, I also think the Bureau had a duty to analyze the negative impact of state laws that have imposed severe restrictions to address borrower use and frequency. Even though these state laws are generally less restrictive than the Bureau's proposals appear to be, I would think that a careful analysis comparing the state models to the CFPB proposals would provide a valuable tool for determining the impact of the proposals. Additionally, I neither saw in the CFPB proposals, nor heard in the Panel meeting, any evidence to show that the Bureau had examined whether or not the state laws and CFPB proposals could work together. Finally, I was struck by the absence of information in two areas that I thought the Dodd-Frank Act specifically required the CFPB to consider: (1) consideration of the adverse impacts of the proposals on consumers in rural and underserved communities; and (2) negative impacts to the cost and availability of credit to small businesses.

I came away from the Panel meeting with more questions than answers. As a result, I strongly recommend that the CFPB provide me and the other small businesses with the information we need to adequately understand the complexities and costs of the proposals so that we can provide informed feedback. I urge the Bureau to seriously consider the concerns raised by the SERs in the Panel meeting and provide a more data-driven analysis and proposal for us to review and provide comments.

## ***Specific Concerns with the CFPB Proposal***

### ***Complexity and Costs***

The complexities of this proposal are far beyond what I've experienced in my state—and Virginia has one of the most, if not the most, complex regulations in the country. Implementation of the current Virginia law took effect in 2009 and hit our family-owned business hard. At the time, we had 5 storefront locations in rural areas and had plans to expand into more rural locations. That did not happen after the law was passed.

While there may have been good intentions behind the law, many of the changes had adverse effects on both lenders and borrowers. Most small lenders went out of business. Our company was forced to close two stores, which were located in rural areas where customers have few options for the loans they need. In fact, since we closed our stores, not one loan company has moved into either community to fill the credit void.

The financial impact was harsh, the human toll was painful. We had to lay off employees who had good benefits and a number of them were women who were sole providers for their families. The happy customers we were in business to serve were no longer happy. The credit product they knew in the past became almost impossible to use. Customers were upset and our managers were in tears because the changes were as hard to explain as they were to understand. In my reading of the CFPB proposals, I find that they are so difficult for ME to understand that I cannot imagine how we would explain them to our customers. Based on what I can understand of the restrictions the CFPB is proposing, the impact on our company and our customers will be that there will be no options left in our communities for short-term credit.

In the absence of adequate small business impact data provided by the Bureau, I cannot begin to quantify the total cost of what the CFPB measures would be. I can provide cost examples from our Virginia experience. However, based on my reading of the CFPB proposal and my knowledge of the Virginia law, the costs of complying with the CFPB proposal would be at least as severe as the changes to our state law.

One such example is software costs. Based on my experience in Virginia, the CFPB's estimates of software conversion costs to implement its proposals grossly understate the true costs. When the new Virginia law was implemented in 2009, our company went through 5 different software companies over the span of 4 years before finding one that could comply with the new regulations. The attached chart (Attachment I) details our software conversion cost. However, this cost does not include our having to run multiple software platforms simultaneously at times, just to handle the number of regulatory changes. Nor does it include computer hardware costs, the costs of increased payroll and training, customer wait time and various related cost factors. And based on our experience, we will not know what the real costs will be until we get into the process of making the changes and sourcing the vendors.

Another example is training costs, which are directly proportional to the complexity of the transaction. Attachment II shows actual training costs for a new hire in our company for the period before implementation of the complex Virginia law in 2009 and the period following implementation to present. Additionally, we have made a good faith estimate of what those same costs might be under the CFPB proposals—as we understand them. As you can see, the cost for our company to train a newly hired employee increased 163.4% when the 2009 state law became effective. Our estimated cost for the same level of training under the CFPB proposals represents a 108% increase over current costs. With these estimated figures for the CFPB proposals, our training cost for one new employee would be more than five times higher than it was in 2008. And these costs do not even include the re-training of existing employees.

These are but two examples of how costly the CFPB regulatory requirements would be on small businesses, based on our experience in Virginia. It is important to note that these are fixed expenses that do not vary with loan volume. Since the cost of a loan in Virginia is a fixed fee, there is no way for a small business to recover any of the increase in fixed expenses. The only lenders that seem to be surviving in Virginia are the largest lenders who can make up these fixed costs with loan volume. Small lenders like my business were clearly hit the hardest.

In addition to these hard costs, the complexity of the transaction under the CFPB's proposal would lengthen customer wait times and increase their frustration with the product. Our employees and customers would relive the Virginia experience all over again—but at an exponentially higher level.

Financially, we would not be able to remain in business, once all remaining costs of the CFPB proposals are considered.

Finally, I cannot see how the complexities of our Virginia state law and those in the CFPB proposal could possibly work together. Here's just one example. Virginia's law mandates that the borrower's minimum loan term is determined by pay frequency: minimum 14 day loans for consumers who are paid weekly; 28 days for bi-weekly; 31 days for semi-monthly; and 62 days for monthly. Under the CFPB proposal, weekly, bi-weekly and semi-monthly paid customers in Virginia would fall under the short-term covered loan rules. Monthly paid customers fall under long-term covered rules—but because they have a balloon payment (single pay loan), they would fall back under short-term covered loan rules if you use the ability to repay (ATR) method. If I'd like to use the alternative method, I'd have to go back to the long-term covered loan alternatives. But the NCUA method will clearly not be profitable, due to the 28% APR cap. The 5% PTI would not be profitable either, as the 5% is far too low. This means the only option a monthly paid customer in Virginia would have is the ATR method. If you, the Panel members, are confused by reading this, imagine how confused I am—and how utterly confusing it would be to explain all this to my customers. I am concerned and bewildered by the fact that CFPB has not taken the time or the trouble to look at these kinds of conflicts with state laws.

***Impact on Rural and Underserved Communities***

We live in a small town and are often stopped by our customers in public places and thanked for being here to help them out. The large majority of our customers are extremely pleased with our products and service. We know our customers by face and name and have a great working relationship with them.

Our family business always has been, and will continue to be, a proud sponsor of local businesses and charities in our communities. We've been a five-year sponsor of the Scott M. Fisher Foundation Fund for suicide prevention, as well as an on-going supporter of the local Volunteer Fire Department, and The Free Clinic of Culpeper, to name a few.

We have the support of our communities and I am greatly concerned that the CFPB proposals will have a severe ripple effect throughout our small towns—negatively impacting our company, our customers and our communities. Not only will our customers be left without suitable credit options, our employees will lose good-paying jobs with benefits in communities where there are few employment opportunities. And the towns' businesses, which depend on the purchase of goods and services by our company, employees and customers, will greatly suffer.

***Impact of the Cost and Availability of Credit to Small Businesses***

With no data on which to support its hypothesis, the Bureau believes there are very few small businesses that depend on short-term loans to fund their business. That is simply not true—and the negative consequences to these local businesses will be dire.

We have a number of small business customers who use our vehicle title loans as a source of funds for their businesses.

I've got a homebuilder, for example, who says he does not have time to jump through the hoops and fill out all the documentation to get a bank loan—even if he could qualify. He uses our loans as a cash flow tool. He understands the cost of our loans, only borrows the amount he needs (versus a larger bank loan) and knows exactly when he can pay us back.

Another customer owns a janitorial service and has taken out title loans to cover employee payroll while he waits to be paid for completed jobs.

These are just two illustrations of the importance of our service to these vital service-providers in our communities.

***Closing Thoughts***

Again, I am most appreciative of being able to participate in this process. My overall concern, however, is that we SERs did not have the benefit of appropriate information from the CFPB upon which we could have given more substantive feedback. My earnest request is that the CFPB conduct the research required in order to answer our questions, address our issues and produce an alternative set of proposals that take that information into account.

Sincerely,

Brandon Payne

Attachments

Mr. Payne included the following items in his written feedback to the Panel:

1. Payne’s Check Cashing, “Software Costs.”
2. Payne’s Check Cashing, “New Hire Training Hours and Costs.”

CHECKMATE
• PAY DAY LOANS • CHECK CASHING •

May 13, 2015

Via Email to cfpb_payday_sbrefa@cfpb.gov

Richard Cordray, Director
Consumer Financial Protection Bureau
1275 1st Street, NE
Washington, DC

**Re: Submitted by: Jennifer Robertson, Chief Financial Officer and Chief Compliance Officer for Pacific Rim Alliance Corporation d/b/a Checkmate**

Dear Director Cordray:

My name is Jennifer Robertson, Chief Financial Officer and Chief Compliance Officer for Pacific Rim Alliance Corporation d/b/a Checkmate. I would like to thank you on behalf of Checkmate for the opportunity to participate as a Small Entity Representative in the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel session on April 29, 2015, regarding the Consumer Financial Protection Bureau's (CFPB) potential rulemaking for Payday, Vehicle Title and Similar Loans. This letter is to memorialize and supplement my statements made during the Panel session.

As I am sure was clear from the Panel session, the CFPB rule proposals would have a devastating impact on the small-dollar credit industry as a whole and would put our company, along with many other small companies in the industry, out of business. The cost of implementation to comply with the proposals along with the reduction in revenue caused by the credit restrictions would make offering a "covered loan" to our customers no longer profitable. This would cause our customers to seek credit that either does not address their urgent financial needs or comes from more expensive or illegal credit options. Rather than attempting to address concerns through consumer disclosures and proposals that preserve consumer choice, the CFPB has essentially chosen to eliminate certain credit options altogether.

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## I. General Deficiencies in CFPB Proposals

Our company believes that the proposals have numerous problems but some of its general deficiencies include:

- The proposals are offered based on the assumption that certain acts and practices with respect to covered loans are "unfair" and "abusive." The Bureau makes no case that any particular act or practice meets the standards of "unfairness" or "abusive."
- The proposals are also based on the Bureau's authority to prescribe rules ensuring that financial products are effectively disclosed. Yet, the proposals only briefly mention disclosures, suggest no specific disclosures and provide no data on whether consumers do not understand the covered loan products.
- The proposals are not based on research of small businesses and their practices, products, limitations, and customers. At best this is an incomplete analysis and at worst leads to inaccurate data and incorrect assumptions.
- The proposals fail to account for existing state laws, including the limitations already placed on creditors, as well as the effectiveness of existing state laws in balancing consumer protection and access to credit. The CFPB is suggesting that the various state legislatures and regulators across the country have allowed licensed lenders to cause substantial injury to consumers and take unreasonable advantage of consumers' lack of understanding of covered loan products.
- The proposals fail to consider substantial research regarding "covered loan" products as well as effects of restricting credit products in general. The Bureau has seemingly relied almost exclusively on limited research that only supports its assumptions. Making proposals without refuting or even addressing such a significant body of research and data is arbitrary and capricious.
- The proposals ignore the distinctions between the wide varieties of products covered by the term "covered loan."
- The proposals "ability to repay" concept fails to understand the small-dollar credit market and take into account the significant benefits associated with meeting an urgent need.
- The proposal fails to consider the extremely low percentage of complaints within the industry. Consumers overwhelming like the product and think it is useful.

These major deficiencies suggest the proposals are based on a misunderstanding of the industry as well as very limited data and research. As such, there is no basis for the assumptions upon which these proposals are built. In light of these deficiencies and the devastating impact the proposals will have on consumers using short term credit, the industry as a whole, and small business in particular, the CFPB should suspend further action on the current proposals, conduct additional research, review existing research that conflicts with the CFPB's assumptions, obtain data from small businesses, correct the serious deficiencies in the proposals, and reconvene a SBREFA Panel. We trust the CFPB wants to preserve small-dollar credit options(as it has stated numerous times),does not wish to eliminate hundreds of small businesses, and ultimately wants to promulgate a rule that balances consumer protection with access to credit. If that is truly the CFPB's mission, then it will reevaluate these proposals and address the major deficiencies.

## II. Checkmate – A Women-Owned Small Business

Checkmate is a woman-owned company in business for over 25 years. Our company operates 58 storefronts in 5 states[1] with $25 million in annual revenues.

We are state licensed in all five states where we operate. We are highly regulated and are regularly audited by each respective state regulator, the IRS (title 31 audits), and now by the CFPB. We average about 45 separate audits per year.

We employ 236 staff members who have been with us on average at least 5 years. Our staff is comprised of 82% women and 76% minorities, with an average salary of $40,000 per year.[2] In addition, Checkmate has continuously offered great benefits including paid time off, health insurance and a generous company-matched 401(K) plan. We promote from within as evidenced by the fact that all of our district and regional managers started as tellers, and the average tenure of our upper management is 10 years.

Checkmate serves 50,000 customers per month who come to us for fast, friendly services that not only includes "covered loans," but also check cashing, money orders, money transfers, prepaid cards and bill pay. Depending on the state, Checkmate offers short-term loans, longer-term loans and vehicle secured loans.

We know and respect our customers and we pride ourselves on customer service. Our customer satisfaction is extremely high with less than 20 formal complaints last year. Both state complaint statistics[3] and the CFPB's own Complaint Portal indicate that the overall complaint rate for the industry is also very low.[4] In addition, a recent Harris Interactive Poll indicates that payday consumers overwhelmingly like the product.[5] Other research has shown similar consumer support for the product. A George Washington University study found 86% of customers believe the payday product to be a useful financial product and 88% were satisfied with their last transaction.[6] The CFPB has built its proposals on the assumption that payday and other covered loans are "unfair" and "abusive" in the current structure they are offered under the various state laws. The CFPB appears to be attempting to fix a problem that does not exist. More importantly, the CFPB has built its proposal on the idea that the product is "unfair" and "abusive" in its current structure but the actual customers using the product overwhelming think the product is useful and beneficial.

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[1] Checkmate operates in Arizona, California, Colorado, New Mexico and Washington.

[2] The majority of our store employees have no or little college education. It will be extremely difficult for these employees to find new employment with the same salary and benefits provided by Checkmate.

[3] See Washington State Department of Financial Institutions, 2013 Payday Lending Report (453 total complaints out of 871,801 transactions and 330 of the total complaints were against online lenders).

[4] According to the CFPB's own complaint data for 2014, the payday lending complaints totaled only 2% of the annual complaints submitted to the CFPB, compared to 35% for debt collection, 20% for mortgage, 18% for credit reporting, 8% for bank accounts, 7% for credit cards, and 3% for student loans.

[5] Payday Loans and the Borrower Experience, Harris Interactive, December 2013.

[6] An Analysis of Consumers' Use of Payday Loans, Georgory Elliehausen (George Washington University) January 2009.

The customers we serve are from the large and growing market of individuals who have limited or no access to traditional sources of credit. Our customers are working-class, middle income individuals that turn to us for convenient and immediate access to cash. They earn between $20,000 and $50,000 a year, with more than 16% earning over $50,000 a year. Checkmate's customers use our financial services because they are quick, convenient and in many instances more affordable than other available alternatives. Customers also use our services because they understand the value in meeting their credit needs outweigh the cost of using the product. The customers like the ability and flexibility to make their own decisions on the priority of financial obligations and the peace of mind to know if a need arises a credit option is available to them.

## III. Ability-To-Repay Requirements

The proposed "Ability-To-Repay" requirements for both short-term and long-term loans will be problematic if not crippling for our small business. Checkmate never sets out to make a loan to anyone we believe does not have the ability to repay us and we underwrite every loan we make. We consider many factors when underwriting a customer including the customer's need as well as willingness and ability to repay. The specific information we obtain includes:

- A valid driver's license
- Proof of Income,
- Proof of Residence
- Proof of bank account
- References and other information as necessary.

We do not analyze major financial obligations or other living expenses. However, we do have parameters in place to limit the amount we loan each customer relative to their income. We understand that our consumers have a need when they come to us and the value of meeting those needs must be weighed in the analysis. The CFPB has conducted no research to determine the value to consumers in meeting an emergency credit need. Certain emergency needs may be invaluable (e.g. car repair, medicine, rent, etc.). Furthermore, simply evaluating a customer's "major financial obligations" does not account for a customer's right to prioritize those obligations. The CFPB seems not to understand that a new financial obligation today may take precedent over an existing obligation and the consumer should have the option to make that decision.

### a. Pulling Credit Report

The process of pulling from and reporting to credit bureaus is damaging to our small business as well as our customers' credit scores. It is difficult and very resource intensive for small companies to get approval to use the national credit reporting bureaus, and it is also very expensive to set up the necessary software integrations to use them. Additionally, we estimate the cost per funded loan will be in the range of $10 to $15 per loan eliminating most of our profit. For the consumers, this will also be detrimental. Our customers already have extremely low credit scores or no credit scores, and our repeated inquiries will only make this issue worse. The CFPB recently found that 26 million consumers are credit invisible[7]. Under the CFPB's ability-to-repay requirements, these consumers would be denied credit which could disproportionately impact Black and Hispanic consumers. Many consumers specifically use our product because we do not make credit bureau inquiries.

Aside from the increased transaction costs, small businesses like ours would also incur increased staffing costs to perform the ability-to-repay analysis on each loan transaction. The ability to repay requirement would also increase the time to close a transaction limiting the amount of transactions that could be completed in a given day. Our customers are working-class people and often visit our stores during their lunch break or other times of limited availability. The consumers do not want and do not have time for a long closing process.

For some loan amounts and in some geographic areas we do use limited alternative credit analysis tools. But, we have found these to be only marginally useful.

**b. Major Financial Obligations**

As part of the ability-to-repay requirements, the CFPB proposes that companies verify "major financial obligations." This is completely unrealistic unless companies are allowed to rely on stated expenses from the customers. Customer don't carry around this information in a verifiable way. Also, many of our customers live in households with shared expenses. There is no way to verify if consumers are splitting rent, splitting utilities or any other household expenses. A copy of a lease or utility bill will not suffice. This is an unnecessary and costly requirement and there are no readily available tools to verify a consumer's major financial obligations.

The Bureau also indicates it is considering requirements to verify utility and medical payments. As noted above, utility payments will have issues with shared expenses amongst a household, and verification of medical expenses could run afoul of FCRA and HIPAA requirements. Requiring our small business to consider additional categories of obligations, such as utility and medical bills will mean that our ability to lend on the "residual" amount will lead to even smaller loans. The more obligations we are required to consider, the smaller our loans will become. The entire concept of underwriting based on all major financial obligations and looking at residual income shows a lack of understanding of the small dollar credit market. Consumers often use small dollar credit to cover a short-fall, because an unexpected event has lead to a deficiency to cover the costs of living expenses and obligations. Consumers choose to get small dollar credit, when they can't cover expenses, and they prioritize getting our credit to pay rent above getting evicted, to pay for medicine rather than going without, to pay for a car repair so they can keep traveling to a job, etc. Basing a customer's "ability to repay" in part on major financial obligations fails to understand that consumers can and should have the right to prioritize their financial obligations and make their own credit decision. Customers who don't have "residual" capacity in their budget, should be able to decide whether to take on credit rather than suffer from events that would be more costly than the credit. Taking this right away from consumers is condescending and may actually lead to harmful consequences to many consumers if they are unable to meet their credit need.

**c. Borrowing History**

Checkmate already verifies recent borrowing history within our organization. We also check state-wide databases in New Mexico and Washington. If we are required to report to a national consumer

[7] Data Point: Credit Invisibles, The CFPB Office of Research, May 2015.

reporting system as the proposal suggests, the costs and impacts are hard to quantify although our bad debt will most likely rise. In Washington, where a similar state database has the same impact, our bad debt is the highest of our single pay loans as compared to states where we do not have a database. Set up and integration with these databases is also very costly. We have seen many small companies close their doors in states with significant changes that require these sophisticated integrations.

Overall when contemplating the Bureau's ability to repay requirements, Checkmate would be required to review additional income information in ways not currently contemplated, would be required to review customer expenses, and to reduce the loan amount down to some percentage of residual income, which is likely a far lower amount than the consumer needs.

Unlike a mortgage loan or credit card, our product is a form of emergency short-term credit, more akin to an ambulance ride. Our data indicates that our underserved consumers come to us seeking to (i) pay for a car problem to continue getting to work, (iii) pay for unexpected medical needs, (iii) to avoid utility shut off fees and (iv) other needs that are of substantial benefit to them and that if not met will likely result in significant harm to the consumer.

These situations require immediate payment of amounts that the consumers do not have. The situations may require the consumer to prioritize financial obligations meaning certain less important obligations may need to be delayed as other obligations are met. We let our customers make those decisions because we cannot make that value judgment for them nor can or should the CFPB. The consumers do not come to us with stellar credit (26 million consumers are credit invisible) and do not come to us with an ability to demonstrate regular reserves of cash flow in their weekly budget.[8] Like an ambulance ride, they come to us with an emergency need, and understand that we have to charge our state regulated rates to provide an opportunity to avoid the catastrophes that could emerge if they cannot pay for a car repair, unexpected medical needs, or utility shut off.

Requiring us to provide emergency credit to a consumer, based on a "residual" amount available after considering expenses, will mean that a consumer who needs $350 to (i) pay for a car problem to continue getting to work, (iii) pay for unexpected medical needs, or (iii) to avoid utility shut off fees, will only be able to receive a nominal amount, often less than $10 if any credit at all. In other words, the consumer will not receive the loan the consumer needs, and will likely forgo our services. This will drive the consumers to less desirable credit options (e.g. off-shore unlicensed illegal internet lenders, traditional loan sharks, etc.) that will charge the consumers much higher rates with completely unsupervised collection methods.

We abide by our state laws and regulations and because of state mandated limitations, we cannot adjust pricing to compensate for any of the additional expenses generated from the proposals. The proposals provide a huge advantage to companies operating in states that have no price controls or other lenders operating under a "choice of law" model. Checkmate would consider offering any other allowable products under the state laws where we operate, but more than 80% of the credit we currently provide would not be available. We would close our locations, terminate our leases and eliminate 236 good paying jobs. Therefore, the most impactful cost to Checkmate will be the cost of losing our customers entirely, and the consumer will face the cost of losing access to emergency credit to cover the amount of their emergency expenses.

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[8] Wall Street Journal, Younger Generation Faces a Savings Deficit, Moody's Analytics shows adults under the age of 35 have a negative 2% savings rate (November 9, 2014).

### d. Better Approach

The CFPB's assumptions about "ability to repay" are incorrect. Checkmate's customers do have the ability to repay their loans, and do repay their loans. Company-wide bad debt is less than 5%. Small dollar lending does not need a full-blown mortgage style credit analysis. The revenue we earn per loan is too low to justify the time and expense of this type of analysis. In addition, an "ability to repay" analysis ignores willingness to pay and a consumer's decision to prioritize financial obligations.

The CFPB has failed to consider less burdensome alternatives that may eliminate what the Bureau believes to be the "unfair" or "abusive" nature of certain acts or practices. For example:

(1) disclosures about ability to repay, costs, etc.;
(2) required promotion of financial education through pamphlets/links/courses;
(3) reasonable safe harbor thresholds based on gross income;
(4) consider state law restrictions that have balanced reasonable consumer protection with credit access; and
(5) consider implementing trade association "best practices" into the proposals.

## IV. Limitations on Sequences of Covered Short-Term Loans

The limitations on sequences of covered short-term loans would have a substantial impact on our revenue. The CFPB indicates that the loss of loan volume could be up to 84% based on the ability to repay loan sequence restrictions, and we believe that the impact will be worse on small businesses. Deloitte analyzed our financial reports and determined that Checkmate would see a decline in profit margin ranging from 164% to 252%.(See Deloitte Analysis attached as Appendix A – Confidential and Proprietary).[9] The Deloitte Analysis only evaluates the impact of the proposals relating to short-term loans. The analysis indicates 31 stores would become unprofitable and an additional 16 stores would likely need to close. So the impact of the proposals relating to short-term loans would alone result in the loss of 47 stores.[10] Obviously we would not survive such losses. Costs to implement these requirements are irrelevant because the revenue impact is so significant.

Our company also has personal experience with significant regulatory changes and their devastating effects although the changes in Colorado and Washington were not nearly as restrictive as the CFPB proposal. When Checkmate went through the changes in the state of Washington in 2010, our customers were limited to 8 loans in a given 12 month period, given free six month payment plan options and a database was established. We saw an 83% reduction in revenue, laid off 86 staff members (80% reduction in staff) and closed 2/3rd of our locations requiring us to terminate 14 leases. We have not been able to maintain profitability and we are only able to operate at all due to the

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[9] Deloitte Analysis, CFPB Regulatory Proposal Small Business Review Panel, Business Profile for Pacific Rim Alliance Corp.

[10] We expect the cost increases and limitations relating to the longer-term loans would result in the closing of all seven (7) of our Colorado stores bringing the projected store closings to 54.

profitability of our other states. With the CFPB contemplated changes, we would have to lay off all 236 employees and leave all 58 locations empty.

The Bureau's presumption of inability to repay when new credit is needed is simply incorrect. The CFPB appears to assume that existing financial obligations are equal to or more important than emergency needs and that a consumer's financial obligations will remain the same. Unexpected expenses may arise during the term of the first loan requiring additional time to repay or between sequential loans requiring new credit. It would also be an extremely rare event for one of our customers to have a significant increase in income between sequential transactions. Therefore, the proposals limiting sequential loans would in effect limit our ability to provide short-term loans to only one within any 75-90 day period (term plus 60-days) and a total of 4-5 loans in a year per consumer.

For short-term loans, there is no way to verify changed circumstances in a customer's ability to repay. Credit reporting is delayed and you simply can't get new data every two weeks on a borrower. In addition, it is unlikely that a consumer would ever have "changed circumstances" in a two-week period.

The CFPB needs to consider more realistic alternatives to their limitations on loan sequencing. For example:

(1) consider a requirement for a payment plan (off ramp) after a certain sequence of loans or days of indebtedness as some states have found to work for its consumers;
(2) reducing or eliminating sequencing restrictions if the lender requires a principal pay down;
(3) consider eliminating these restrictions altogether when consumers pay their covered loans in full;
(4) consider mandating disclosures showing the long-term costs of sustained use of short-term credit (e.g. Texas CSO disclosures); and
(5). consider implementing trade association "best practices" into the proposals.

## V. Limitations on Reborrowing of Covered Longer-Term Loans

Similar to the issues with covered short-term loans, the presumption that a consumer lacks the ability to repay when new credit is needed is simply incorrect. This presumption locks consumers out of credit options when unexpected events arise. Customers in most instances would not be able to prove a better condition, and thus would end up either defaulting or not being able to meet a new and possibly more important financial obligation. This would cause harm to the consumer as well as the lender. We would now have to report the default to the credit reporting agency and thus reduce further the consumer's access to credit in the future.

If customers do not have the flexibility to refinance their longer-term loans when any new unexpected event arises, they will end up defaulting, and our bad debt rates will increase tremendously.

This increased denial of credit and higher defaults will cause us and other licensed entities to go out of business and will send our customers into the hands of unlicensed lenders or traditional loan sharks that will not comply with the CFPB or any rules. This will increase the cost of credit and open the consumers to unregulated collection practices.

## VI. Alternative Requirements for Covered Short Term Loans

The alternative requirements are almost as burdensome as the ability-to-repay option, and we could not survive under this model either. The CFPB projects slightly lower loan volume reductions for lenders using the alternative loan structures (55%-62%). However, recent research indicates the loss of revenue industry-wide would be greater than the CFPB is estimating.[12] The CFPB projects loan fee reduction from 60% to almost 75%. Deloitte's analysis of our financial reports projects a devastating impact on our business. As we covered earlier, our experience in Washington showed us that we can't survive with such reductions in revenue especially when the proposals will also increase expenses.

This alternative option is inconsistent with our current state laws and regulations. This alternative would conflict with laws in Washington, New Mexico and Arizona. The $500 loan limit is lower than what is allowed and what we currently offer in Washington and New Mexico. In addition, the restriction would eliminate our short-term vehicle secured product altogether in Arizona.

These alternative requirements would be a strong disincentive to offer short-term loans, however, in California and Washington a short-term loan is the only state approved option that we have for small dollar loans. There is no longer-term loan option available in these states that will work for our customers.

We also do not understand why the Bureau is prohibiting title lending under the alternative short-term loans. We have offered both long term and short-term title loans in our states historically, and we find most consumers prefer a short-term product. Our consumers budget for short cycles of time, and they repay short-term loans more successfully than longer-term loans. Prohibiting these loans does not allow consumers to utilize equity in their vehicle. The consumer's vehicle is likely the only asset the consumer has to obtain credit and the CFPB is taking that option from them. In addition, it is rare that a consumer ever loses his vehicle in these transactions.

## VII. Alternative Requirements for Certain Longer-Term Loans

Neither option the CFPB is proposing would allow us to stay in business. We have experienced first-hand similar (although less burdensome) restrictions in Colorado. When the law in Colorado changed, we saw most small entities go out of business. Along with the revenue losses the complexity of the product was too costly to reprogram for small businesses. We believe Checkmate to be the smallest business still offering the "payday" product in Colorado.

We have seen a small increase in total customers at our seven locations (about 8%) but have seen a 27% decline in revenue and a 19% increase in bad debt. We have had to decrease staffing significantly (about 20%) to make up for the lower total loans, loss of revenue and higher bad debt. The changes in Colorado were catastrophic to most small businesses and Checkmate has only been able to barely survive thanks to revenue from other states. However, with the additional requirements of the CFPB's

[12] NonPrime101.com - Clarity Analysis, Proposed Rule Reduces Payday Loan Count by over 70%, (May 4, 2015).

proposal on a nationwide basis, we would lose all profitability and have to close all our stores in the state.[13]

Colorado provides a great example of the regulatory limits under which the industry can survive. The Colorado restrictions (which are much less burdensome than the CFPB proposals) forced essentially all small businesses in the state to close. Many of the larger companies have only been able to survive in Colorado because of the profits made in other states. Small businesses have seen their future with the CFPB proposal in the example of Colorado. Small business could not survive the Colorado changes and they certainly will not survive the more restrictive CFPB proposal.

## VIII. Payment Collection Practices Limitations for all Covered Loans

The Bureau's proposal to require a notice before attempting to collect payment from an account does not take into consideration consumer choice. Checkmate asks its consumers today if they would like a reminder call or text message. About 40% of our customers agree to receive text message reminders and another 30% agree to courtesy calls. Customers should have the right to decline advance notification and the ability to opt out. Many customers either do not want notification because they are an annoyance or because of privacy concerns. Mailing notifications to our customers would be very expensive and inefficient. We struggle with return mail from our required customer mailings today. Sending mail notifications every two weeks is simply too costly and frankly unwanted by the consumer. We would urge the CFPB make this notification optional and require the customer's consent.

The Bureau's consideration to limit the number of times a lender may attempt to collect from a consumer's checking, savings, or prepaid card account seems unnecessary and does not appear to be supported by any research. The proposal seems unnecessary because lenders are already under pressure and restrictions to limit the number of returned items. In addition, lenders do not want to initiate a payment instrument that will be returned because the lender incurs a fee.

We have experienced a 300% increase in bank fees in the past 6 months. Our very small company will incur over $700K in bank fees this year. Returned items are a key driver for our bank fees, and as such, we do everything we can to keep from depositing an item that we do not think will clear.

In addition, the new NACHA rules effective in September 2015 will limit the number of ACH returns. Lender and their ODFI's will be subject to fines and removal from the NACHA network if returns are too high.

Furthermore, Checkmate maintains policies based on the applicable state Uniform Commercial Code, Regulation CC, the Electronic Funds Transfer Act, Regulation E, the NACHA Rules, and card payment processing rules.

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[13] The closing of all seven (7) Colorado stores combined with the 47 store closings based on the short-term proposals bring the projected store closings to 54 of our current 58 locations. Checkmate would ultimately have to close all its stores and terminate all 236 employees.

We manually try to verify funds in accounts before we represent returned checks or ACH payments. Unfortunately, most of the tools available to us in the past to aid in these efforts are no longer available to our industry. Actions by federal agencies in this area have forced banks to stop allowing verification of funds.

We charge the state allowed returned items fees ranging from $15 to $25, but we pay our bank $14.50 for each returned check. With processing costs, we lose money on many returned items even if we are able to collect the fee from the customer.

Given all of these pressures and restrictions to limit returned payments, we see no need for the Bureau to add more restrictions than we already face in our collection efforts. In addition, the CFPB has shown no research indicating consumers incur a disproportionate number of insufficient funds fees from covered loan products and why such products should be treated differently than other products. Furthermore, debit card payments and other forms of payment which do not result in the consumer incurring fees should certainly not be subject to this proposal. Finally, the implementation of this proposal would likely increase court collection efforts against consumers.

## IX. Research

There are many academic and third party studies and research that support the benefits of payday lending and the corresponding harm that results when this form of credit is removed. (See list of studies and research attached as Appendix B). There are also several significant studies, some quite recent, that illustrate: the impact on businesses of the CFPB rule proposals is more extreme than projected by the CFPB[14], borrowers who engage in protracted refinancing activity have better financial outcomes (measured by changes in credit scores) than consumers whose borrowing is limited to shorter periods[15], and default on a payday loan plays at most a small part in the overall timeline of the borrower's financial distress [16]

## Conclusion

Checkmate urges the Bureau to reconsider its proposals. In their current form, the proposals will not only eliminate all of the small businesses in our industry, but they will abolish the entire industry. The CFPB said many times that it does not want to cut off access to small-dollar credit because the CFPB sees the need for such products. However, these proposals will no doubt eliminate small-dollar credit for a huge portion of Americans. The CFPB is substituting its decision-making for that of the consumer. Yet, the CFPB does not know the consumers' circumstances, the value of the credit need, and the consumer's willingness and ability to prioritize financial obligations. Research shows that consumers overwhelmingly like and need these products. As stated previously, the CFPB appears to be creating a solution for a problem that does not exist.

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[14] NonPrime101.com - Clarity Analysis.

[15] Jennifer Priestly, Kennesaw State study.

[16] Mann, Columbia University, February 2015.

We respectfully request the CFPB to suspend further action on the current proposals, conduct additional research, review existing research that conflicts with the CFPB's assumptions, obtain data from small businesses, correct the serious deficiencies in the proposals, and reconvene a SBREFA Panel. If the CFPB truly wants proposals that balance reasonable consumer protections with continued access to credit, then major changes have to be made to the current proposals.

Sincerely,

Jennifer Robertson
Chief Compliance Officer and Chief Financial Officer
Checkmate

**Request for Confidentiality**

We have included in and attached to this written statement confidential and proprietary information related to Checkmate. We request that the CFPB not disclose the information designated as such and that the information be treated as confidential and proprietary.

Ms. Robertson included the following items in her written feedback to the Panel:

1. Deloitte Financial Advisory Services, Analysis for FiSCA (May 2015).
2. Checkmate, “Studies and Research.”

# Written comments of Ed Sivak
# Hope Federal Credit Union

# Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title, and Similar Loans

# April 29, 2015

Thank you for the opportunity to serve on the Small Business Advisory Review Panel for Potential Rulemakings for Payday, Vehicle Title and Similar Loans. I serve as the Chief Policy and Communications Officer for Hope Federal Credit Union (HOPE). For twenty years, HOPE has worked to break the cycle of poverty throughout the Mid-South by undertaking a wide range of income and asset development strategies to improve the quality of life for the region's low- and moderate-income residents.

In our experience as a small credit union, HOPE and its members incur significant costs within the current regulatory framework for short term small dollar loans. These costs largely revolve around working with members who have taken on too many short term payday loans without consideration for the member's ability to repay. They also include the management of deposit accounts that have payday activity that exacerbates overdrafts and ultimately charge off.

HOPE is of the opinion that in the presence of a strong, meaningful ability to repay rule, that the organization will experience lower costs associated with the types of activities described above and will save money over time. Savings will likely accrue to HOPE as more information enters into the market place to inform the underwriting of our loans resulting in lower delinquencies and charge offs and on the increased stability of our member deposit accounts. Such a rule will take place when the CFPB adopts the Ability-to-Repay provisions that account for income and expenses with restrictions on reborrowing and with the requirement to report all covered loan activity.

HOPE has submitted a memo to the Consumer Finance Protection Bureau that outlines its small dollar lending products. The information is available for review in Appendix A. Specific comments are found below.

### Topic 1: Ability-to-Repay Requirements – Underwriting and Verification

HOPE supports a strong ability-to-repay rule with the proposed underwriting requirements. HOPE anticipates that it would not need to make any substantial changes to its current underwriting processes if the proposed requirements were implemented. None of HOPE's current products meet the criteria to be classified as a covered loan.

HOPE already engages in rigorous, manual underwriting of all consumer loans. We are sharing this information to show that such practices can be implemented in a cost effective manner that does not curtail responsible lending. HOPE's current practices include:

<u>Income and Major Financial Obligations</u>

- HOPE calculates a Debt-to-Income (DTI) on all of its closed end consumer loans;
- The DTI is set at 45% of gross income and 55% for net income;
- HOPE includes housing expenses (mortgage or rent) within the DTI calculation and the ratio is set up to factor in residual income;

    - In this process, HOPE verifies all income through pay statements. Statements must include wages earned year-to-date;
- Self-employment income is verified through tax returns;
- HOPE only considers the income of the person that applied for the loan; HOPE does not consider the income of other people in the household unless it is a joint application.

<u>Borrowing History</u>
HOPE currently check's a member's loan history by pulling a credit bureau from Trans Union for every closed end consumer loan application. The credit bureau allows HOPE to look back 10 years, although, HOPE primarily reviews the past 24-36 months of activity. HOPE reports borrower performance to Trans Union, Equifax and Experian. Additionally, HOPE will request two months of bank statements from the borrower if the bureau is insufficient for us to make our decision and if the member's primary deposit account is not with HOPE.

In the process of reviewing the credit bureau, HOPE does not use the credit score to make a decision on whether or not to approve a loan. Credit scores are only used to price HOPE's loans which have a rate cap of 18%.

<u>Recommendations</u>
HOPE supports the proposal for covered short term loans to report to a credit reporting agency. Given HOPE's current underwriting practices, HOPE's preference would be for all loans to be reported to Trans Union, Equifax and Experian. To the extent that the rule requires the reporting of all outstanding short term loans to a specialty bureau rather than one of the bureaus specified above, HOPE would choose to subscribe to the specialty bureau to gather additional information to inform its underwriting. More informed underwriting would allow us to make better loan decisions which would ultimately reduce costs through reduced delinquencies and charge offs in the long run.

At the same time, in the absence of a clear preference or limited set of preferences named by the CFPB among specialty bureaus, it is not clear whether or not HOPE would receive a more complete picture of the borrower's history. If payday lenders could pick and choose to report among a number of specialty bureau options and HOPE would not know which bureaus to select to inform its underwriting – particularly if the number of eligible specialty bureau options is high. Additionally, to the extent that multiple specialty bureaus will exist, HOPE would incur increased costs for each specialty bureau added to its underwriting process. The specter of multiple specialty bureaus and the costs associated with subscribing to multiple bureaus suggests that actions should be taken by the CFPB to limit reporting options for short term covered loans to the specialty bureaus that exhibit the most capacity to cover the largest segments of the market.

## Topic 2: Ability-to-Repay Requirements – Restrictions on Reborrowing

<u>Short Term and Balloon Loans</u>
HOPE strongly supports the proposed restrictions on loan sequences for short-term and Balloon Loans. In HOPE's experience, the absence of restrictions on reborrowing – particularly for short term loans – have led to harmful outcomes for HOPE's members. The following case study illustrates the shortcomings of current state law in Mississippi.

In late July, 2012, a borrower came to HOPE looking for assistance. The borrower had initially taken out a payday loan to cover expenses after the car broke down. Once the borrower had taken out the first loan, the borrower got behind and then took out another loan and then another. By the time the borrower had made it to HOPE, the borrower had eight payday loans outstanding from seven different lenders. Table 1 provides an overview of the loan amounts.

**Table 1**

**Payday Loan Summary – Borrower Case**

| **Lender** | **Amount of Loan** |
|---|---|
| Lender #1 | $400 |
| Lender #2 | $365.85 |
| Lender #3 | $249.60 |
| Lender #4 | $180 |
| Lender #5 | $234 |
| Lender #6 | $210 |
| Lender #7 | $240(a) |
| Lender #7 | $240(b) |

Combined, the loan summary illustrates a number of problems. First, Lender #7 engaged in the practice of "loan splitting." This practice allows the lender to circumvent the requirement in the Mississippi Check Casher's Act that any payday loan secured by a check with a face value of higher than $250 will have a repayment term of 28 to 30 days.

Second, in total, the borrower faced having $2,119.45 taken from the checking account at the end of the month. The borrower's take home pay for the month of July totaled $2,076.49 – which was divided over two pay periods. Clearly, multiple lenders in this example made loans that the borrower could not afford to repay. It should be noted, that there was no single reporting system that would alert lenders to the fact that the borrower had multiple payday loans outstanding at one time.

A cooling off period would have prevented the unsustainable levels of short term loan borrowing outlined in the example above.

## Topic 3: Alternative Requirements – Covered Short-Term Loans

We are of the opinion that in the absence of a strong Ability-to-Repay rule that the credit union will incur higher costs than in its presence. We believe that the Ability-to-Repay principle should be in effect for every loan. The alternative requirements proposed by the CFPB are not as strong and therefore could increase costs to the credit union – particularly for members with checking accounts with frequent payday lending activity that ultimately become charged off.

To assess the costs associated with payday lending in an environment without ability-to-repay standards, HOPE reviewed the charge offs of all checking accounts in 2014 with negative balances over $500. Twenty-five percent (25%) of the charge offs experienced payday lending payment drafts after the account had already been overdrawn. Exhibit B provides an example of one member's account that was charged off with significant payday lending activity – including multiple attempted drafts via ACH.

In addition to the costs incurred by the credit union for charging off the account, it is important to point out that once HOPE charges off the member's checking account, his or her options for securing another deposit account are severely limited. We are concerned that the alternative requirements do not underwrite for success and both the credit union and its members will incur higher costs than if the Ability-to-Repay rules are implemented.

### Topic 4: Alternative Requirements – Covered Longer-Term Loans

HOPE has no comments on this topic.

### Topic 5: Payment Collection Practices Limitations

HOPE supports the CFPB proposal to limit attempts to collect a payment from a consumer's account after two consecutive attempts have failed, unless the lender has obtained a new payment authorization from the consumer. Appendix B provides an example of a member that experienced multiple loan payment collection attempts from one lender in different amounts after the account was already over drawn. Notably, the account became overdrawn on 12/7/2014. The account remained overdrawn for the remainder of December through 1/13/2015 when it was charged off. Despite being overdrawn for 30 days, Advance America, a payday lender, initiated three drafts:

- One on January 7, 2015 for $249.60;
- One on January 7, 2015 for $210;
- One on January 12, 2015 for $210;

The example illustrates the high cost to the borrower as NSF fees mount and to HOPE when the activity contributes to a charge off event.

### Topic 6: Impact on the Cost of Business Credit

HOPE has no comments on this topic.

### Topic 7: Other / Additional Feedback

One final recommendation to consider in the drafting of the rules for payday, vehicle title and similar loans, includes the requirement to grant all borrowers a payoff quote for those who request one within 24 hours. In HOPE's experience, there have been instances where a payoff quote has been requested by the borrower, and the lender has refused to give the quote to the borrower.

In Appendix C, reviewers will see the March 2015 bank statement of a member that received a deposit from Maxlend. In addition to the loan from Maxlend, the member also had an outstanding payday installment loan. The consumer loan agreement for this loan is also included in Appendix C. The member approached HOPE to consolidate the loan from Maxlend with the payday installment loan into one loan with an affordable monthly payment. When the member contacted Maxlend for a payoff quote, Maxlend refused. Such actions significantly drive up the underwriting costs and the risks associated with making the loan for both the credit union and the member. Such actions also do not financially better the consumer and should be prohibited.

It should also be noted that it is questionable whether or not the borrower had the ability to repay either loan.  Three days after making the second payment on the payday installment loan in February 2015, the borrower had overdraft activity on their account (Appendix D).

<u>Other questions</u>

In the drafting of the comments for the SBREFA Panel, HOPE identified two questions to submit for the record:

- First, given that longer term loans with account access would use an all-in annual percentage rate in excess of 36 percent to determine whether or not the loan would qualify as a covered loan, why would an APR of 36% not be contemplated as the threshold for determining whether or not a short term loan should be covered?
- Second, on longer term loans with a non-purchase money security interest in a vehicle, why would longer term loans secured by personal property also not be included as covered loans?

## Conclusion

Again, thank you for the opportunity to submit written comments.  If there are any questions regarding the points made, please contact me at esivak@hope-ec.org or via phone at 601 944-4174.

Mr. Sivak included the following items in his written feedback to the Panel:

1. Email from Ed Sivak to Laura Udis, Response to Information Request for Consideration to Sit on Small Business Review Panel (January 29, 2015).
2. Transaction Summary.
3. SunTrust, Account Statement.
4. SunTrust, Account Statement.

CA$H IN A DA$H
Payday Advance

Home Office: 405 Hart Road, Lexington, KY 40509, 859-263-5840 | 790 Morton Blvd, Hazard, KY 41701, 606-439-2274 | 1360 Richmond Road, Irvine, KY 40336, 606-723-0799 | 5440 Main Street, Clay City, KY 40312, 606-663-0890 | 36 Jenkins Road, Whitesburg, KY 41656, 606-633-4383 | 153 3rd Street, McKee, KY 40447, 606-287-2274

Via email: cfpb payday_sbrefa@cfpb.gov

Small Business Advisory Review Panel Members
On Potential Rulemakings for Payday, Vehicle, Title, and Similar Loans
c/o Consumer Financial Protection Bureau
1500 Pennsylvania Ave., N.W.
Washington, DC 20229

Re: Written Comments of Small Entity Representative Judi Strong

Dear Members of the Small Business Advisory Review Panel:

I am a small payday lender with five stores called Cash In A Dash LLC. I worked in Kentucky state government and the University of Kentucky for 12 years. I am a grandmother of two and a widow but remarried and my husband is also my financial partner.

I started this business in 2001 with one store in Hazard, KY because I wanted my own business and I did not want to retire at age 50. I investigated this business model with the Kentucky Department of Financial Institutions and they said they have fewer complaints from payday lender customers than any other business they regulate. One year later I opened our second location, and each year following I opened an additional store until I had five in total. We serve our customers in five rural counties and my businesses are one of the few places they can go to find credit.

We have always followed all of the applicable state and federal laws and regulations and are fully compliant with all KY licensing and reporting requirements. The Department of Financial Institutions examines us annually. In 2009, the Kentucky Legislature passed a bill that reformed the industry by limiting customers to no more that $500 in total debt and provided for a mandatory statewide database to enforce this limit. It also gives the Department of Financial Institutions accurate information regarding the habits of our borrowers and how stores are operating. They also put a moratorium on new licenses until 2019. This has decreased the number of stores in KY from 739 to 550. Attached is the full overview of the KY regulatory and enforcement structure in Appendix I.

Let me tell you a little bit about my customers. I have attached some of their stories to add additional context, as Appendix II.

First and foremost, I know my customers. I know more than their names. I know their children and their cousins and grandmothers. I know who just lost a spouse or best friend or who just lost their job. I know my customers well, as do my employees, because we have a history with them. They share their stories every time they come to the office. They like to share what is going on in their lives and their families.

I know how much money they make and how they spend it and how much they can easily pay back in two weeks or 30 days. In fact, if I am concerned they may have to come back in two weeks for another loan, I often make the loan term 30 days so that they avoid the extra fee.

Income levels are $26,000 average in all five counties where stores are located. The counties have a population of 18,000 or less. The unemployment is some of the highest in the U.S., average household income is $26,000, 71% have a high school education and 70% own their own home. 100% of my stores are in rural areas. When I matched the zip codes to the CFPB's list, all of them qualified for this designation. Attached as Appendix III are six letters from other companies who applied to be SERs from rural areas. They agree with me that the CFPB's proposal will hit rural and underserved consumers particularly hard and deprive them of access to credit.

Many of my customers are single mothers and heads of households who use payday proceeds to smooth income for everyday expenses. Some use the product because their families are doing small business such as trucking, computer repairs, hair salon work, fence building and repairs, yard work, and child-care. I have also attached some of their stores in Appendix II.

The proposal from the CFPB would create the worst level of lender discrimination based on gender and income and the underserved and rural populations. Those whom you propose to "protect" will only feel redlined, much in the same way customers were treated by banks in the 1970s.

The fact that customers are satisfied with our products is supported by a national public opinion survey conducted in 2013 by Harris Interactive, an international research and polling company. This Harris Interactive study is the first large, statistically significant one that looks at the motivations and rationale of payday loan users. While numerous studies have examined the economics and policy implications of short-term lending, this Harris poll is the first in-depth examination of payday loan borrowers' experience. Here are a few of the highlights of this study:

- 9 out of 10 customers were satisfied with their payday loan experience;
- 84% of customers understood exactly how long it would take to pay it back, including rollovers
- 93 percent of customers carefully weighed the risks and benefits before taking the loan.

These results show overwhelming satisfaction with the payday lending product, and certainly do not support the CFPB's restrictive rule proposal. For more information about this Harris study, please see Appendix IV attached.

My employees are special people and I treat them that way. Our pay scale is 25 – 30% over the minimum wage. One employee has been with us for 10 years, 3 employees have been with us for 8 years, 4 employees have been with us for 4 years and the others have been with us 2 to 3 years. See Appendix V for letters from employees.

All of our employees started on a part-time basis and have taken over as the manager or fulltime employee, which is 40 hour a week. They have trained and all are capable of running the store themselves.

I have successfully implemented the Back to Work Program for Women. This has been used several times over the past 15 years. They actually started out as customers and became employees.

The CFPB proposal distributed to the SERs is a complicated and punitive intervention into my business that does nothing to help my customers and would eviscerate my business.

The estimates that the CFPB used to determine loss of revenue were not derived from small companies data. The CFPB has not studied small-business payday lenders like mine. The impacts reported in the CFPB proposal are based on large-firm examination data and do not take into account significant increased cost structures in small businesses. The CFPB does not evaluate the sustainability of the small businesses affected by looking at store results of profitability or lack thereof. However, the results of the CFPB's estimates are enough to sink any business, and small stores like mine would be affected even more severely.

No portion of the CFPB's impact analysis uses residual income information from borrowers of small-business alternative products in order to estimate the impact of new ability-to-repay requirements. My real life interaction with customers has not been taken into account and is in fact substituted by some statistics that only apply to very large companies.

Accordingly, the CFPB has insufficient data in order to evaluate the burdens of its proposal on small business. These same missing data are necessary for the CFPB to evaluate, alternative but less burdensome regulatory models that could produce similar consumer-protection outcomes.

To determine the exact impact of the proposals, I participated in a study with Charles River Associates. I provided transaction level and store data to the researcher. The findings clearly indicate that I would have to close all my stores in less than 90 days after the implementation of these types of rules.

As Mr. Dan Gwaltney reported at the SBREFA Panel meeting, a group of six of us, all small-business lenders, including four SERs identified in this review, provided their financial and loan data to Charles River Associates for analysis.

These data included store-by-store monthly profit-and-loss statements from six small lenders for a two-year period, covering approximately 200 stores with payday lending revenues across 15 states. The businesses also provided transaction-level data for 150,000 consumers across eight small lenders with 234 stores in 15 states.

The results of this analysis show that the proposed rulemaking would devastate small-business lenders. Under the proposed long-term debt protection rules contained in the outline, payday lending revenues are estimated to decrease by 82 percent on average for the small-business lenders analyzed. The average annual per-store net income decreased from a profit of approximately $37,000 to a loss of approximately $28,000 (a negative swing of $66,000).

Of the close to 200 stores with payday lending revenues in the analysis, 84 percent of the stores would be expected to experience net losses. All six firms included in the analysis would have experienced significant losses and would be expected to be required to cease operations.

Given the short time period involved and the absence of historical data regarding the effects of application of the CFPB's ability-to-repay rulemaking variants, it was not possible to model those variants. However, there is no reason to suspect that those variants would produce superior profitability results to those reported by Charles River Associates.
A complete copy of Charles River Associates' report is attached as Appendix VI.

I also can tell you from my own personal experience that the proposal does not take into account the behavior of my customers, nor does it address their needs for liquidity or the timing of their cash flow shortages.

The 60-day cooling off period and mandatory lockout are both unfeasible and punitive. Customers borrowing patterns are seasonal. From January until April there is a natural cooling off for a lot of customers as they receive their tax refunds to cover their bills and unexpected expenses. They tend to come back as school graduations, summer vacations, gardening projects; home improvement comes with the spring. With schools starting early in August we find that is a busy month in the stores. November and December are also busy.

My customers do not get a cooling off period with respect to all the bills they owe on a monthly basis. I cannot tell them to simply refer to their creditors for their non- payment of utility bills or groceries as their cooling off period. Customers implement their own cooling off periods with me as their individual circumstances change. Nobody knows when he or she is going to experience a need for more cash flow or an emergency is going to arise. To tell someone they cannot borrow for 60 days is just not a feasible for them or the lender. One of my best customers stopped by in February after she received her tax refund and said she would not be back for a while. Ten days later she came in and had to borrow because her refrigerator broke and she need $400 to repair or get a new one. A 60-day cooling off period would have placed her in financial jeopardy. You cannot quell demand for this product by cutting of the supply. People will move to dangerous and costly alternatives.

I do not get a cooling off period with respect to my payroll, rent, taxes, insurance or any other expenses. If my customers are to be locked out for nine months per year, then I will need a similar reduction from all my vendors and employees and landlords during that period. Somehow, that does not seem plausible.

I have read the entire proposal several times and read most of the media reports and press releases put out by the CFPB. First, I believe that the press release that mentions a woman who turned a $300 payday loan into an $8,000 liability is just false. There is no way anyone can do that, especially in Kentucky, and from what my fellow SERs reported, the other state laws would not permit such a balance to be due on a payday loan. In KY, once you default, you cannot be charged additional interest and fees.

More importantly, the CFPB claims that sustained use of my products causes harm to my customers. However, they have offered no proof or even an analysis of where they derive harm from these loans. The only study they ever site is from Pew Trusts, which are a paid advocacy and lobbying group, not the Pew Research organization. They are dedicated to stopping my product, not conducting real research. In fact, if you read their shoddy report that they call research, you really begin to question their honesty and veracity. I have attached a statement from my trade association, CFSA about the Pew report, as Appendix VII. They have gone into great detail debunking some of Pew’s “findings” and methodology

Furthermore, when real research is completed by scholars who use appropriate methodology and not five-year old, stale polling data, the results are quite different.

I have attached, as Appendix VIII, the study produced by Jennifer Priestley from Kennesaw State, which concludes that sustained use of payday loan products does not decrease one’s credit score. I believe that this is true because my customers tell me that they use their payday loan proceeds to pay off their reportable debt. My customers are intelligent and are offended that the CFPB thinks they are not smart enough to think for themselves.

The CFPB would have been able to do a better job protecting consumers by looking at working state models. This product has been around in regulated form for over 15 years. Thirty-five states have passed enabling statutes because actual payday lending in unregulated form has been going on in some states for over one hundred years. That is where some of the most egregious abuses have occurred. In KY, local grocers and dry goods stores would allow people to run tabs but with no records. When the bill got to a certain level, the store owner would use extraordinary means to seek repayment, including physical harm or forfeiture of land or property that had been in the family for years, and worth considerable amount more that the bill for groceries. Furthermore, there was never any accountability as to the amount owed, no disclosures and no chance to challenge the amount due.

## Kentucky

Had the CFPB simply looked at viable state models like Kentucky, they would have learned that we have a track record of bi-partisan, well thought-out legislation that has proven to help customers while not eliminating all their options for short term credit.

In fact, the industry worked with the legislature and consumer advocates on reform bill in 2009. While it resulted in a significant loss of revenue and store licenses, we have a workable framework that the CFPB should study for its results in protecting consumers.

We also worked closely with Commissioner Vice and Attorney General Conway to give the customer an Easy Payment Plan. This was set up to keep the customer from incurring an NSF Fee. They can come into the store before the loan is due if they think they are going to have a hard time paying the loan. They agree to a payment plan and we will not send the check through the bank.

The CFPB should take a page from our book in Kentucky and actually have a dialogue with us instead of dropping on us an unworkable set of regulations that have no basis in fact, developed with no actual research on a customer's welfare, or actual understanding of our customers. The measure is meant to be punitive and sets arbitrary numerical limits on credit with no benefit to the customers and no showing of some "harm" that is being fixed. My personal experience, and scholarly research both indicate that more bank accounts are overdrawn when customers do not have access to these products. I have attached the study from Morgan and Strain as Appendix IX.

## Utah

In addition, I have read about the newly passed law in Utah and think the CFPB should consider studying the Utah law and how it affects consumers.

Lenders must determine ability to repay by income verification or a credit bureau report, and the borrower must sign an affidavit stating he or she has the ability to repay. Rollovers must be requested by the borrower.

The major change to Utah's law in 2014 was the mandatory offering of an Extended Payment Plan after the customer has had a loan for 70 days. If the borrower refuses the EPP, he or she must pay off the loan and wait one business day before taking out a new one.

The law also requires that the lender must accept a partial payment on the original sum and can renew with a smaller balance for the subsequent loan. The EPP must include four payments over at least 60 days, with a $20 default fee. While the law may not be feasible for some lenders, or even small businesses like mine, it may provide a viable alternative to these draconian measures proposed by the CFPB.

For all the reasons I have mentioned in this letter, I requests that the proposed rulemaking be withdrawn, that the proposal be modified and that the SBREFA Panel be reconvened. This new panel could then consider a revised set of proposals based on full data about small-business lenders and their borrowers and to consider the viable and consumer friendly state regulatory models.

Sincerely,

Judith Strong

**Judi Strong**
**President and Owner | Cash In A Dash LLC**
**(p) 859-227-4465 (e) judi.strong@twc.com**

# KY Deferred Presentment Transaction System

*Banking & Insurance Committee – October 2014*

Charles A. Vice, Commissioner
Kentucky Department of Financial Institutions

# DISCUSSION TOPICS

- Deferred Deposit
  - Review of the Statute
  - Overview of Data
- Condition of Banks in Kentucky
  - Unemployment trends
  - Financial Ratios
  - Challenges
  - DFI Actions
- Questions

# KRS 286.9 – DEFERRED DEPOSIT

- Established in 1992, amended in 1998 and 2009 (added Database)
- Transaction Limits:
  - Maximum of 2 transactions totaling $500 outstanding at one time
  - Term 14-60 days
  - Fee: $15 per $100
- Internet and Unlicensed Activities
  - Illegal to collect BOTH principal and interest

Kentucky UNBRIDLED SPIRIT

# COMPLAINT DATA

| CATEGORY | 2011 | 2012 | 2013 | YTD 2014 |
|---|---|---|---|---|
| Payday Lenders | 14 | 13 | 5 | 8 |
| Internet Payday Lenders | * | 116 | 137 | 78 |
| Other | 88 | 67 | 60 | 51 |
| TOTAL | 102 | 196 | 202 | 137 |
| | | | | |
| **PERCENT OF TOTAL NON-DEPOSITORY COMPLAINTS** | | | | |
| Payday Lenders | 14% | 7% | 4% | 6% |
| Internet Payday Lenders | * | 59% | 68% | 78% |

Kentucky UNBRIDLED SPIRIT

## DATA BASE ENFORCEMENT TOOL

- Operational on April 30, 2010
- On-line / real time
- Risk identification
- The database will **not** approve a payday loan in excess of statutory limits

## OVERVIEW OF 2013 ACTIVITY

- Total Number of Transactions = 2,192,018
- Average Advance Amount = $335.17
- Average fee = $55.38
- Total Number of Borrowers = 211,660
- Average transaction = 20.2 days

# Appendix II: Customer Stories

4/22/2014

[redacted]

I am 47 and wife works at Hitachi. Father of 2 kids.

A small loan is an American Life. I lost my leg on a motorcycle accident in 2012 at intersection of #89 and #82 in Estill County. When I had this accident it was 2 1/2 years before I received any money. That was when I realized the value of payday loan without help from another gov. agency

90% of true Americans need 200 or 300 for reasons like electric bills exp. just to pay my electric bill in Dec. and Jan of 14/15 which was $638 and $584.

I am home alone and a loan without collateral, which I can borrow, being a small loan is tremendously of value to me.

I would be willing to talk to anyone or testify on capitol hill relative to this value

[redacted]

May 6, 2015

[redacted]

From: Judi Strong
Cash in a Dash LLC, Lexington, KY 40502

Subject: "Small Business Owners" in Perry County, KY using payday lending!

* [redacted] Mr. [redacted] is currently borrowing $500 for the purpose of investing in wife's new beauty salon.

* [redacted] uses payday lending to finance her occupation as a hair dresser.

* [redacted] uses payday lending to finance her booth at a flea market, as she is a vendor.

* [redacted] uses payday lending to finance her profession, which is a realtor for Century 21 real estate firm.

These are 4 examples of payday lending contributing to small business owners and investors in the economy of Perry County, Kentucky.

May 4, 2015

I am [redacted] living in [redacted]

My occupation is an independent contractor installing High Speed Satellite Internet and Direct TV/Dish Network.

I contract from different Exede, Dish & Direct Dealers. I purchase my own equipment for installations. My equipment includes poles, radios, modems, dish sets, clamps and so forth.

In 2015 I needed a small loan to purchase my first set of equipment in order to do my installs. I borrowed from Cash in a Dash LLC payday lender in McKee, Jackson County, Kentucky. I borrowed $200. I then paid this loan in full once I received my first paycheck from the dealer.

Payday Lending was the quickest, easiest system, economical and also had no penalties if I became late in paying back. The product and cost was explained up-front, payday lending's ability to ACH, run my check through the bank if over 5 day's late and no extra charge if I failed to pay on time. I was also told I could only borrow up to $500 at any one time, could have no more than 2 checks totaling $500 at any one time and would be unable to borrow more until this loan was paid. I needed no collateral, only the trust of the payday lender and the need to furnish my paycheck, an established bank account, fill out a thorough application with 3 to 6 references and a utility bill.

This system and Cash in a Dash LLC working with me was outstanding and assisted in a major way putting my business on the road to success.

[redacted]

"Mike's Makes Sense"

Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

Dear Mrs. Strong,

I understand that you were one of the participants in the SBREFA Panel, and that you made a strong argument in favor of protecting the small businesses operating in rural and under-served communities. I wanted to voice my concerns and would ask that you share my letter with your comments to the CFPB.

I own and operate Mike's TV, Furniture and Appliance in Kansas. I started this company in 1981, and we have grown it over the years into a small family business with a handful of locations across the state. We have 8 locations with a total of about 50 employees; half of our locations are in rural areas as classified by the CFBP. Our stores offer Payday Loans, and lease and sales of furniture, electronics, and appliances. I am very proud to say our employees in these towns have developed a strong relationship with our customers, and our customers have shared with us how much they value and appreciate the services we provide.

I have read the Proposals put forth by the CFPB and frankly I am both shocked and terrified of the impact they will have on my business, and on my customers' ability to secure short term credit. Our customers rely on access to short term credit for many needs; be it a problem with their car, a birthday gift, to help keep the electricity on, groceries, or any other pressing need. They understand the product and use it responsibly. I can not understand the CFPB's desire to take this option away from our customers; not only would this impact the customers who use our product, but it would also have a severe impact on our company. We would likely be forced to cut our workforce in half. Our employees and customers live in these under-served rural communities, and this will have a ripple effect across those communities.

I would ask that you plead with the CFPB to collect more information from small businesses like mine, and to reconsider their proposals and the impact they will have on both small business and the communities in which they operate.

Thank You,

Mike Strong

Mike's TV, Furniture, and Appliance
Hutchinson • Lyons • Newton • El Dorado • McPherson • Concordia • Pratt • Salina
www.mikesrenttoown.com
620-663-3556

Appendix III: SERs who applied from rural areas

ALL AMERICAN
CHECK CASHING, INC.

Ms. Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

All American Check Cashing, Inc.
505 Cobblestone Court
Madison, MS 39110

May 11, 2015

Hello Judi-

I would like for the CFPB to recognize that companies similar to yours and mine provide financial products in rural and underserved small towns all across the country. But, equally important is the opportunity we provide for employment, community outreach and support for these small towns.

**Employment opportunities:** My company provides employment in rural areas to applicants with less skill set than larger markets thus we employ candidates with GED's or high school diploma's on a regular basis. My company employs 79% female workers of which 53% are of child bearing age (21-36) and our average female worker age is 31. Minorities make up 40% of my work force but in rural and underserved areas the minority percentage goes up to 46%.

**Community outreach:** In rural and underserved communities we regularly work with the local chamber and the town leaders. We are able to make a large and lasting impact when a family has a tragedy and we are able to conduct blood drives and become the drop off point for clothes or other bare necessities. We work with these families to raise life giving supplies, shelter, clothing and money.

**Community service:** We regularly donate our time to the local boys and girls club, battered women's shelters and under privileged reading programs. I can't tell you how many small town Christmas parades we've participated in. In fact we have a Santa Tour where we use a professional photographer and Santa while visiting our rural stores providing a free photo with Santa. Judi, most of these children never have the opportunity to sit in Santa's lap. *As I type this I have received a letter from the president of a small town thanking my company for our support* *and cooking the meal to feed volunteers that cleaned the town last Saturday during a chamber of commerce supported community event. (Attached)*

Simply stated in rural and underserved America the financial choices are extremely limited. In some of these towns there are not even any banks. Additionally, employment opportunities are almost non-existent. We are a highly regulated industry and adding federal oversight at the proposed level from the **CFPB will shut down 70%** of the short term industry but will <u>surely eliminate 100% of the rural and underserved areas.</u> The CFPB must realize that the NEED for our products drives the demand and by limiting the consumer access will NEVER DO AWAY WITH THE NEED. Taking away products or regulating providers out of business has never worked in the USA. Instead we need to educate our great nation and allow the **educated citizens** to make choices for themselves. If the **NEED** was not great the supply would go away on its own.

Thank you,

Michael Gray

President, All American Check Cashing

## Michael Gray

**From:** Randy Kirby
**Sent:** Monday, May 11, 2015 12:13 PM
**To:** [redacted]
**Cc:**
**Subject:** RE: Clean Up Day

Thank you Whitney, we certainly enjoyed it and as always it was our pleasure!!!

**Randy Kirby**
Acquisitions & Facilities
All American Check Cashing, Inc.
P. O. Box 1350
Ridgeland, MS 39158
Wireless: 601-668-7463
[redacted]
"Home of Relationship Lending"

---

**From:** Whitney [redacted]
**Sent:** Monday, May 11, 2015 9:40 AM
**To:** Randy Kirby
**Subject:** Clean Up Day

Mr. Kirby,
I wanted to thank you personally for you and your business cooking lunch for the volunteer workers for Clean-Up day last week. It was a wonderful gesture that I know was greatly appreciated by all. We truly value you and your business and everything you do for our community.

[redacted]
President, Magee Chamber of Commerce


---

Kimberly L. Gardner

Equity Management Group, Inc.
6610 Summer Avenue, Suite 102
Bartlett, TN 38134
(901) 380-4115 office
(901) 380-4224 fax

May 7, 2015

Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

Dear Ms. Strong,

I understand that you expressed concern about small businesses operating in rural and under-served communities. I would like to personally thank you and I applaud your efforts.
I am also requesting that you send my letter with your comments to the CFPB.

I am a small, family owned business owner with 7 locations in Tennessee. We currently have 17 full time employees all of whom are full time and are provided health care insurance. Most of my employees have been with us for many years. One, in fact, who is celebrating his 19 year anniversary this year.

We opened for business in May of 1994 to fill the need in the community for a "Financial Alternative" available to the general consumer that would provide a small, unsecured, short term cash need until his/her payday.
Our customers choose the payday advance option to cover small expenses and avoid costly bounced check fees or late payment penalties and other less desirable short-term credit options.

I have read the CFPB's Proposals under Consideration and am extremely concerned about their effect on my small business, my employees and my customers.

Tennessee was one of the first states to pass and regulate the payday advance industry. I was involved and spend numerous hours working with the legislature and the Department of Finance to make sure the Tennessee law was balanced and consumer friendly. I take pride in the fact that when the Department issues their report to the General Assembly each year they can note the approval rating from consumers who have used a payday advance remains quite high.
Our company's primary focus is on the customer. Our goal is to provide a fair product, at a reasonable value, through a positive customer experience. It is very concerning to me that the Bureau would put out proposals that would have the net effect of eliminating this short-term credit option for my customers. We truly care about our customers and want them to be satisfied with the product. If we didn't it would be difficult to be in business 21 years later.

An additional concern that I have is that 3 of my 7 locations, or 43%, are located in what the CFPB has classified as rural and under served communities. These are communities that we contribute to and support many social and environmental concerns.
Our employees have great relationships with our customers and they truly value our service. We continue to give back to the local communities that we serve and if that option is taken away because we have to close our business I'm not sure what they would do for this short-term credit option.
If we are forced to close our business I'm not sure who sponsors the local baseball team. I find that we are success because we give back and help make the neighborhood a better place.

I personally sit on the board of the Tennessee Financial Literacy Commission. I do this on my own time because it's important. We offer financial literacy information to each customer so to judge our customers by assuming they are not capable of making a sound financial decision or that they don't understand what they are getting into is simply NOT true of my locations in Tennessee. We have balanced regulation in our state with consumer safeguards in place. Our customers, for example, are not allowed to have more than two payday advances or borrow over $500.00.

I would like to ask the Bureau to collect more information from small business like mine and reconsider its proposals to protect small business and the communities we have been serving for over 21 years.

Sincerely,

Kim Gardner

Emergi-Cash
Cash ADVANCE
"Your PAYDAY Prescription"

Thursday, May 07, 2015

Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

Dear Ms. Strong,

First, let me say thank you for your participation as a SER on the recent SEBRFA Panel convened by the CFPB to discuss the issues affecting small consumer lenders across the nation. I know how much valuable time it takes away from your business and customers to prepare for such participation and I thank you for your efforts. I understand that during your appearance, you made a very strong argument in favor of protecting small businesses and their employees that operate in rural areas and under-served communities and I am writing in hopes that you add my voice to the concerns you expressed and request you will include my letter with your comments to the CFPB.

Like you and so many others, I am a small business owner, who works very hard every day to sustain a business to provide jobs and opportunities in local communities and help those who are in need of our products and services. I currently own and operate eighteen consumer loan locations throughout central and south Alabama and 11 percent of those are classified as rural and underserved by the CFPB. We provide three separate types of loan products to serve the communities - Payday or Deferred Presentment loans, Title loans, and small dollar Installment loans. Currently, I employ 41 individuals full time and provide their healthcare coverage (pay a majority of the premiums), paid leave, vacation time, bonuses, and as many other benefits as possible based on our ability to produce income. For your perspective, over the last year or so, due to the barrage of bad press, bank discontinuance due to "Operation Chokepoint", and the quagmire of impending state and federal regulatory action, that employee number is down from fifty. So, as of now, nine people (single moms or with families), some of whom are in very small communities, who had stable jobs with sustainable income and benefits find themselves out of work.

Judi, I have read and think I understand the CFPB's complex rule making proposals under consideration and I am particularly concerned about their effect on our business, customers, and employees. I take my responsibility as an employer very seriously and, if enacted, I envision a devastating impact on us at the very least requiring a major downsizing if not closing our businesses altogether. Not only will the employees be affected but the consumers we serve (who by the way are much more intelligent and capable of making decisions for themselves than given credit for by our industry opponents) will have an invaluable source of short-term credit eliminated. What would they do – pay exorbitant OD bank fees and/or late fees (MUCH higher than our current interest rates), lug their TV's to pawnshops, turn to illegal online lenders? As you know,

4240 Carmichael Road • Montgomery, AL 36106
Phone (334) 356-0687 • Fax (334) 356-0637

the vast majority of our customers use our products responsibly and as intended and we pride ourselves on customer service and building relationships. In my fifteen plus years in the industry, I suspect that you can count on one hand the number of consumer complaints submitted against our company to a regulatory agency and of the few submitted all were handled to the satisfaction of the customer and the agency. I am proud of that fact! Our customers are very satisfied with our services as recently evidenced by the number of petitions signed by them regarding pending legislation in Alabama. I am at a loss as to why the Bureau would even consider proposals that would have such a devastating effect on so many lives.

Our company has also continued to support local charities and provide items like "Back-to-School" packages, through advertising support for local schools, athletics, and other groups, as well as, collected and matched funds to send to other causes like hurricane Katrina, the Tsunami, etc. - all these things would disappear if we were forced out of business by over-reaching regulation! The local economies and other small business would be negatively impacted as well. As I mentioned, recently, due to impending regulation, we have closed locations, vacated leased office space and discontinued using services to clean windows, janitorial, etc., all of which are small businesses that have been negatively impacted. How bad would it be nationwide to implement rules that would eliminate us altogether? None of this even touches on the point that our customers use the money we provide to reinvest in purchases through local business such as grocery stores, department stores, doctor's, pharmacist, florist, plumbers, electricians, etc. Can the industry opponents even fathom the ripple effect this would cause in these communities?

I agree with most everyone in our industry who follows the rules that regulation is necessary and I support common sense legislation that would protect our consumers from those who are not as interested in their welfare as we are, however, I believe most of the regulation should come from the state level where they know and are responsible for the residents and more capable of enforcing regulatory issues. Currently in Alabama we are very well regulated and audited by the state for compliance annually. We provide all disclaimers and disclosures, have limits on how much we can loan, specific payback terms, and even a required "off-ramp" for those who may get themselves into a situation and need additional help by offering them a longer term payback option. Actually I believe it's the over regulation requiring specific terms that eliminates the possibility for competition, which improves the situation for consumers. Why would the CFPB think they should propose rules and issue directives that may conflict with our state law and, worse, put small companies like ours out of business? We have seen proposals like this before in other states and the impact on the employees, consumers, and business have been devastating.

What I would like to see is the CFPB stop operating from conjecture and speculation and do their due diligence. True external and objective impact studies debunk many assumptions currently used by the CFPB. We all know that there are opponents to our industry that just don't care what the actual numbers are and no matter what factual data is presented their opinions would remain the same (especially since some of those organizations have other less honorable objectives). If the CFPB really does want to

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protect the consumer then they should take the time to actually speak to our consumers, compile and analyze actual data and make good decisions based on conversations with those of us in this industry that care about our consumers. Hopefully this will be something they consider more carefully before gutting an industry and destroying lives. I want to thank you for your time reading this letter and I am available to you if you have any questions concerning any statements or opinions I have presented.

Sincerely,

David S. Jones II, Owner
Emergi-Cash

4240 Carmichael Road • Montgomery, AL 36106
Phone (334) 356-0687 • Fax (334) 356-0637

CASH $ TYME®
You're Good For It!

May 8, 2015

Mrs. Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

RE: SBREFA - CFPB Proposed Rules for Payday

Dear Mrs. Strong:

I would once again like to thank you for your efforts and the time you've spent representing small businesses in our industry as a participant in the SBREFA Panel. I know you made a compelling argument for protecting small businesses operating in rural and under-served communities as well as small businesses in general. I would like to add my concerns to yours and request that you forward my letter with your comments to the CFPB.

I represent Cash Tyme, a small, privately owned business, formed in 1998, which operates 49 payday loan locations in seven states: Indiana, Kentucky, Tennessee, Mississippi, Alabama, Louisiana and Florida. We employ approximately 125 people who live in the communities they serve.

At least 16% of our locations as defined by the CFPB, and perhaps more in my opinion, are in rural and under-served markets. Our customers count on our services to be available when they need them. The money they receive from us is spent in their local communities as is our employees' pay. The closure of these locations would have a negative effect on these small communities in many ways.

I have reviewed the proposed rules the CFPB is considering and I am alarmed and saddened the rules that were expected to ensure consumers have access to fair, transparent and competitive markets for small dollar credit, instead will greatly reduce, or completely remove from the marketplace options the vast majority of consumers use in a responsible manner. As written, the proposed rules would prevent a customer who would use the service responsibly and benefit from its use from choosing an option, which they deem better than the alternatives.

In the states in which we operate there are already substantial safeguards in place for consumers, including but not limited to centralized databases which limit the number of payday loans a customer can obtain, limit the amount a customer can receive in total and in relation to their income, and dictate cooling off periods.

825 Northgate Blvd., Suite 200 • New Albany, IN 47150 • 812 - 949-0500 • Fax 812 - 941-9915 • www.cashtyme.com

CASH $ TYME®
You're Good For It!

There are many alternatives that could, and should, be considered by the CFPB which could provide protection for consumers without restricting the option of receiving a payday loan for those who need it and use it responsibly. As an example, in many states we are already required to provide Extended Payment Plan Notices to customers when they receive their loan to make sure they are aware that if they are unable to repay their loan when due we will provide an Extended Payment Plan with no additional fees or interest of any kind.

Ultimately the CFPB's proposed rules, if passed, would completely eliminate an important option from the marketplace. The CFPB would be limiting consumer choice by taking away an option consumers continue to choose over others, use responsibly, benefit from and appreciate. We serve a vastly diverse customer base with a wide range of unpredictable set of circumstances. For the CFPB to propose rules with a "one size fits all" mentality that are so restrictive shows no understanding of, or respect for our customers who make intelligent decisions based on their unique circumstances on a daily basis.

I believe in, and support providing fair, transparent and competitive services and products. However, I also believe that can be achieved without reducing options for those who otherwise would use a product or service responsibly – and without eliminating small businesses and jobs in the process.

Sincerely,

Mick Walts
Exec. VP / Compliance Officer

825 Northgate Blvd., Suite 200 • New Albany, IN 47150 • 812 - 949-0500 • Fax 812 - 941-9915 • www.cashtyme.com

SPEEDEE CASH
MANAGEMENT COMPANY, INC.
P.O. Box 520 - Crestview, Florida 32536
850.682.0475

May 11, 2015

Judi Strong
Cash In A Dash, LLC
405 Hart Road
Lexington, KY 40502

Dear Ms. Strong,

I understand that you were a participant in the SBREFA Panel and I am providing comments in this letter that I would appreciate your including in your written comments to the CFPB. I know that you operate storefronts in rural areas and that is just one of the reasons I am writing to you.

First, I'll say that my company qualifies as a small business as defined by the annual gross receipts maximum for participation in SBREFA. I have worked for Speedee Cash Management for 13 years. Speedee Cash was founded in 1984 and is a family owed business. We employee an average of 175 people. We operate 67 store front locations in Alabama, Georgia, Mississippi, Nevada, South Carolina, and Tennessee offering payday, title, and consumer loan products.

I have read the CFPB rule making proposals and saying that I am concerned is a gross understatement. If the rules are implemented, I am certain that we will close offices, lay off employees, lose company benefits such as 401K, and most certainly have to deny our customers access to safe affordable cash. I assure you that the need will not go away but the availability to come to a regulated lender will decrease immensely and the alternatives our customers must face for their need is quite scary. It astounds me how our government will essentially wipe out an industry that provides a viable short-term credit option for consumers.

Based on the CFPB website, 39% of our stores are in rural and under-served communities. If we have to close locations, it will be detrimental not only to our customers and employees, but to the communities we serve. Vacant buildings will cause lost revenue for landlords and to the community in general. Our company has experienced loss very similar to this based on over-regulation.

Our employees know our customers; they are our children's teachers, law enforcement officials, neighbors, and friends. There are so many misnomers about our customers being poor and uneducated and I truly, as do my customers find it offensive.

SPEEDEE CASH
MANAGEMENT COMPANY, INC.
P.O. Box 520 - Crestview, Florida 32536
850.682.0475

Through you Ms. Strong, I implore the CFPB to re-evaluate their rulemaking proposals. If the CFPB is truly concerned for consumers then the logical step would be to focus on providing financial education thus lessening a consumer's need for short-term credit instead of what their proposal will assuredly do which is eliminating their access to regulated lending and forcing them into unregulated and harmful avenues for cash.

Sincerely,

Elisha Brown

Elisha Brown
Speedee Cash Management, Inc.

Appendix V: Employee Letters

May 4, 2015

[redacted]

Employee of Cash In A Dash

Irvine, KY 40336

To Whom It May Concern:

I have been employed by Cash In A Dash for the past 8 years. My family depends on my income and I would have a hard time finding another employer in my county that provides the salary and the convenience of working close to home. I have two sons, who live at home, one attending college and the other just graduated from high school and looking for a job that he too can remain in the county but give him a good wage. My husband works on a farm, which provides us a home and he does a lot of maintance work for the stores that are owned by Cash In A Dash.

We, employees of Cash In A Dash, know our customers and we try very hard to evaluate their situation when they come to the store for a loan. Many have been to the bank and requested a loan, but they do not fit in their agenda. We have a process that is regulated by the state of Kentucky and we go by their rules and regulations. We have rules and regulations set up by Cash In A Dash and we all go by those rules. We never try to get our customers in trouble by letting them borrow more that they can afford. If one does have a problem we work with them in a payment plan that they can afford.

Our community depends on the money that I earn, and they depend on the money that our customers borrow. Most of us shop locally and it helps other small businesses in our community. Our business rents from a local business owner, we use the utilities of local companies, pay local taxes, do advertising at the local radio station and newspaper, buy our supplies, contribute to the local schools both in the classrooms and on the athletic booster clubs. As you can see we are very much involved in the community and they depend on us.

Even the thought of the CFPB putting us out of business is both frightening and disillusioning. We are a very much needed and appreciated business in this community. I depend on this job as do my fellow workers. We all have families, with children going to college to a 1 year old. One employee is a military veteran widow, who needs this job for income for her family and grandchildren. I do not think you all understand the business nor understand how many people depend upon this type of loan to make it through the month. You will be hurting the economy in these small counties.

Sincerely,

[redacted]

# CASH IN A DASH

**Home Office:**
405 Harr Road
Lexington, KY 40509
859-263-5840

790 Morton Blvd
Hazard, KY 41701
606-439-2274

1360 Richmond Road
Irvine, KY 40336
606-723-0799

5440 Main Street
Clay City, KY 40312
606-663-0890

36 Jenkins Road
Whitesburg, KY 41656
606-633-4383

153 3rd Street
McKee, KY 40447
606-287-2274

To Whom It May Concern:

I have worked for Cash in a Dash LLC Payday Lending, Hazard, KY for 10 years. When I was first employed it was part-time, which allowed me to learn from my nephew, the manager. When he became ill, I accepted the manager's position and have been in that position for the past 6 years. I am a veteran's widow as my husband served in Vietnam. I have raised 4 children and presently help them out with the grandchildren. A widow's pension is not enough for me to support myself and do the things I need for my family. This job with Cash in a Dash Payday Lending has given me a lot of flexibility in my schedule and has afforded me extra money to take care of myself and my family.

I know all of my customers and they feel comfortable coming in and borrowing money from us when they are in need. They are not pressured and we try to keep them in a range of borrowing that they feel comfortable with and can pay back. We have to keep accurate files and records for the state, because we get audited every year and I am pleased to state that I have never been written up or fined for any mistake. We follow all the rules and procedures of the state of KY and Cash In A Dash. We dress professionally and treat all of our customers with respect.

My assistant is also very efficient and she too depends on this income to supplement her husband's salary, as they have a daughter in college and they have expenses they want to cover for her education. Her husband has had to leave the area, traveling 3 hours to work for the past 2 years because the coal mines have shut down operations in Hazard, Kentucky. So, to find work, he has had to travel out of the area. Times are very tough in the Perry County area and we would have a hard time finding another job that pays us as well.

My assistant and I enjoy this work and feel that we are helping our customers, who need a short term loan to help with whatever their needs at the moment might be. Our location is close to the local hospital and we have many customers who work there. If this business closed because of the rules you are proposing you would have a bad effect on our community and our personal lives.

Sincerely,

[redacted]

[redacted]

In addition to the items above, Ms. Strong included the following items in her written feedback to the Panel:

1. Harris Interactive Public Relations Research, Payday Loans and the Borrower Experience (December 4, 2013).
2. Charles River Associates, Economic Impact on Small Lenders of the Payday Lending Rules under Consideration by the CFPB (prepared for CFSA) (May 12, 2015).
3. CFSA, "Response to PEW Research on Payday Loans" (October 2012).
4. Jennifer Lewis Priestley, Payday Loan Rollovers and Consumer Welfare.
5. Donald P. Morgan et al, How Payday Credit Access Affects Overdrafts and Other Outcomes, Journal of Money, Credit and Banking 44:2-3, 519-531 (March-April 2012).

PH FINANCIAL SERVICES

May 13, 2015

Dan Sokolov
Deputy Associate Director
Consumer Financial Protection Bureau
Washington, DC

Claudia Rodgers
Acting Chief Counsel for Advocacy
U.S. Small Business Administration, Office of Advocacy
Washington, DC

Shagufta Ahmed
Policy Analyst
Office of Information and Regulatory Affairs, Office of Management and Budget
Washington, DC

Transmittal via e-mail to: cfpb_payday_sbrefa@cfpb.gov

**Re: Written Comments by Small Entity Representative (SER), Bob Zeitler**

Dear SBREFA Panel,

I am the CEO and owner of PH Financial Services, LLC. I have 55 storefronts in California, Illinois, Louisiana, Missouri, New Mexico, Virginia, and Wisconsin. I offer several different short term lending products depending on the different state laws and, more importantly, based on what my customers want, need, and can afford. I founded my first payday lending store in 1990 and grew that business to 10 locations before selling it to Union Bank of Illinois. After the successful expansion and sale of my first business, I put my efforts into growing what is now PH Financial Services. My wife, 3 sons, and I own 100% of our family business and we rely on it to support our ever-growing family.

Since day one, financial stability has been the primary goal for every customer that comes into our stores. PH Financial Services offers payday loans, non-secured installment loans, title loans, MoneyGram and pre-paid debit card products to our customers. Our role is to customize a financial solution that provides the bridge to their financial stability. We have helped thousands of people establish or restore their credit by reporting to the credit bureau.

**Background on PH Financial Services, LLC**

We have been in business for over 15 years and we currently employ nearly 150 people. We take pride in our on-boarding process to ensure our employees are educated and trained properly and I am proud of our employee loyalty with 46% of our branch staff staying with us for 5 or more years, and we just hired a dozen new staff members. I believe our impressive employee retention is because of training, competitive salaries (33% higher than minimum wage), and our full benefits package we offer to all of our employees. Since last June, we helped eight employees get off of welfare. The pride those employees have in their work and their responsibility to their community is truly a blessing.

We want our employees to be proud of the place they work. PH Financial Services has generously contributed to its communities both nationally and locally. The company has donated over $100,000 to the Make-A-Wish Foundation and an estimated 25 other charities. Due to our unequivocal stance on the importance of financial education, we are also committed to teaching disadvantaged adults and children how to properly manage their money through programs held in local communities.

Our efforts towards employee retention and community relationships not only feel good, it makes good business sense. In 2014, we were able to help 22,000 customers through 169,000 loans and we had less than 25 complaints. That is a 99.99% satisfaction rate. To ensure continued customer satisfaction, we run our own internal audits in addition to any state audits conducted by regulatory authorities. Last year, 96.07% of our stores passed their audits. No store can be without exception, but for 96% of our storefronts, the hurdle was set high, and they met the challenge! We strive for excellence every day in every store.

**Small Business Economic Impact Analysis**

I am currently very frustrated by the lack of small business analysis in the CFPB proposal that I have been asked to review and provide commentary on. The CFPB has had over 3 years to look at short-term lending and how small businesses like mine provide short-term loans to our customers. Yet, when CFPB issued its proposals last month, it admitted that its economic impact analysis was only based on data from large payday lenders. Small business owner's data was not a part of the process. When I looked into the purposes of the Small Business Regulatory Enforcement Fairness Act (SBREFA), I learned that the small business representatives were expected to provide comments on the CFPB's analysis. However, I did not expect to begin this process by finding out that the CFPB had ignored its responsibility for conducting small business-specific analysis and, instead, place that burden on me and my 26 other small business colleagues. Recognizing that the CFPB had not conducted any specific small business impact analysis, I worked with my association, the Consumer Financial Services Association (CFSA), to complete some research that would fill the informational void left by CFPB. CFSA hired Charles River Associates (CRA) to work with me and 5 other small-business lenders to model the impact of CFPB's proposal on our businesses. The CRA research is included, in its entirety, in Dan Gwaltney's written comments and submission to the SBREFA panel.

Much like the proposed rules themselves, the SBREFA process has been highly flawed in its implementation by the CFPB. The limited time frame (less than two months) between CFPB issuing its proposal and then requiring small business specific commentary has now prevented CRA from thoroughly modeling impacts beyond how CFPB's proposal would impact single-payment loan products. I am glad that my association facilitated CRA's analysis, but I continue to believe SBREFA intended for the CFPB to do that sort of work prior to asking me and other small business owners to provide feedback. I am asking that CFPB consider the CRA data, my comments, and those comments of the other SERs, and then re-convene the group of 27 small business owners to provide feedback and communication. If we SER's are not afforded this opportunity, the true small business impact of the proposed rules will be highly diminished, and the negative impact to the industry predicted by the CFPB will most certainly happen.

From a small business perspective, the lender cannot absorb additional cost, absorb reduced revenue and continue to offer an unsecured, convenient product to the consumer. For all of the same reason banks do not lend to this segment of the industry (profit), these proposed rules would create an untenable environment from which to earn a profit. Additionally, the evaporation of credit to this consumer segment will cause the overall cost of credit to become more expensive from less credible sources.

CRA's analysis of CFPB's proposal shows a decline in revenues in excess of what CFPB predicted when it tried to extrapolate small business impact from large payday lenders' data. CRA used 2-years of financial data from 234 stores and included 150,000 consumers. The median loan was for $255 with a 14-day term and a $45 fee. When faced with CFPB's proposal, the stores studied would experience an 82% decline in revenues, even with the assumption that consumers would not change their borrowing behavior in response to the rule (a factor anticipated by CFPB and built into its model of economic impact based on large lender data).

Along with my other small business peers, if an 82% revenue decline was forced upon any of us, we would have to close our businesses under that scenario. When Virginia instituted its regulations in 2009, I had to close 4 stores. My decision to close those stores in Virginia was based on the impact to revenue from $889,171.00 in 2008 to $505,824.00 in 2009, a 43.1% decline– a small fraction of what CRA predicts will result from CFPB's proposals.

What bothers me the most about CFPB's proposal is how closing my stores would impact my employees and our customers. The thousands of customers we help will still need credit and be faced with a burdensome lending environment which at best will limit individual needs if not completely prohibit access to credit. Many of the areas we serve do not fit the mold larger lenders will fill which will eliminate access to credit our customers desperately need. Demand will be met by unlicensed bootleg lenders or those who offer online lending where practices fall outside of state regulations. I have received several letters from customers who know I am participating in the SBREFA process. I removed nonpublic personal information to protect my customers' privacy, but I wanted you to see the letters to demonstrate how my customers view PH Financial Services and the products we provide. Those letters are included as an attachment to these written comments.

It's hard to fathom the full impact closing down our stores will have on the economy, but I know it will go beyond our industry. From the local landlord that now has a vacant building, to the printing company we no longer utilize because we have very little stores to advertise, to the family owned and operated technology company we use to provide our customers with payment reminders. All of this will go away. Not to mention the thousands of jobs that will be lost pushing our valued employees into unemployment and financial ruin.

**Ability to Repay (ATR)**

The CFPB's prescriptive approach to customer screening under its "Ability to Repay" proposals seems to be based on a false assumption that lenders somehow want to lend money to customers who cannot repay. That makes no business sense. The loans I make are funded with my capital which means I participate with the customer in their ability to repay. The CFPB's belief that I would be willing to lose $200.00 for a fee of $40.00 is totally outrageous. I absolutely do not want to lend money to someone who is not likely to repay. Does that mean I should embrace CFPB's approach for underwriting loans? Absolutely not! Each state has different regulations which prescribe how I underwrite my loans. You cannot boil down a customer screening process that should take less than 20 minutes at a small business like mine and script a federal one-size-fits-all underwriting process that can predict my customers' ability to repay. I am asking that each state's underwriting be analyzed to ensure the new rules will be flexible for both customers and lenders so that rogue, bootleg lenders to do not proliferate the market allowing honest, law abiding, moral lenders such as myself the continued privilege of providing a much needed form of credit.

At my stores – Our underwriting process has been developed to encompass a balanced, fair and ethical approach for determining how much, if any, credit can be granted to an applicant. In fact, our primary focus is to determine the applicant's ability to repay which we believe serves the best interest of both the applicant and our company. If a customer encounters an unforeseen problem while paying off their loan, the Illinois law allows for a re-finance and I work with customers to help them meet their obligations. The CFPB should look closely at that type of flexibility, which recognizes the fundamental business practices of small businesses like mine and the importance of working with customers in relationship lending. CFPB's approach of mandating a prescriptive underwriting process will hurt my ability to effectively screen customers and will limit the flexibility I have to assist customers meet their financial obligations.

**The 5% Test**

The CFPB is proposing to limit loan payment amounts to a maximum of 5% of a consumer's gross monthly income. Currently our underwriting allows for a maximum loan amount of 25% of the applicant's gross monthly income.

Doing some simple math on the CFPB proposed limit, a consumer would have to make $75,000 a year to qualify for loan of $500. Our customer base is in the low to moderate income sector, with annual gross income ranging from $30,000 to $50,000 a year. A consumer making $35,000 a year, for example, would only be able to obtain a loan of $265 under the CFPB proposal. Furthermore, a consumer making $20,000 a year would only qualify for a loan amount of $150. This rule will severely penalize the majority of our customers limiting their access to credit.

Consumers making less than $20,000 annually get penalized the most under this rule.

The following chart shows the effects of the 5% rule:

| Bi-Weekly Payment Maximums - Assuming 5% rule - What would maximum loan amounts be vs. Annual Incomes using $17 Fee Per Hundred Borrowed | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Annual Income | | | | | | | | |
| Payment Max of Income | | $ 15,000 | $ 25,000 | $ 35,000 | $ 45,000 | $ 55,000 | $ 65,000 | $ 75,000 | $ 85,000 | $ 95,000 |
| 5.0% | | $ 28.85 | $ 48.08 | $ 67.31 | $ 86.54 | $ 105.77 | $ 125.00 | $ 144.23 | $ 163.46 | $ 182.69 |
| 10.0% | | $ 57.69 | $ 96.15 | $ 134.62 | $ 173.08 | $ 211.54 | $ 250.00 | $ 288.46 | $ 326.92 | $ 365.38 |
| 15.0% | | $ 86.54 | $ 144.23 | $ 201.92 | $ 259.62 | $ 317.31 | $ 375.00 | $ 432.69 | $ 490.38 | $ 548.08 |
| | | | | | | | | | | |
| NCUA Payday Alternative Allows for loans up to $1,000 - A customer would have to be making approximately $70K a year to get the same loan at a 120% APR including app | | | | | | | | | | |
| $800 Loan - 12 payments 6 Months | | | | | | | | | | Unavailable |
| - $800 Loan Payment Amount | | | | | | | | | | |
| FDIC Pilot Program Average Loan Amount $724 - I.e a Consumer would have to make more than $95K a year to get the same loan | | | | | | | | | | |
| $700 Loan - 12 payments 6 Months | | | | | | | | | | $ 700.00 |
| - $700 Loan Payment Amount | | | | | | | | | | $ 177.33 |
| $600 Loan - 12 payments 6 Months | | | | | | | | | $ 600.00 | |
| - $600 Loan Payment Amount | | | | | | | | | $ 152.00 | |
| $500 Loan - 12 payments 6 Months | | | | | | | | $ 500.00 | | |
| - $500 Loan Payment Amount | | | | | | | | $ 126.67 | | |
| $400 Loan - 12 payments 6 Months | | | | | | $ 400.00 | | | | |
| - $400 Loan Payment Amount | | | | | | $ 101.33 | | | | |
| $300 Loan - 12 payments 6 Months | | | | | $ 300.00 | | | | | |
| - $300 Loan Payment Amount | | | | | $ 76.00 | | | | | |
| $200 Loan - 12 payments 6 Months | | | | $ 200.00 | | | | | | |
| - $200 Loan Payment Amount | | | | $ 50.67 | | | | | | |

**Takeaways:**

- The average installment loan orignated balance is approximately $600 today. A consumer would have to be making over $85,000 a year to get that loan assuming the 5% rule
- The FDIC and NCUA average loan amounts are greater than the average loan amounts in the short term industry and the banks and credit unions could not serve customers/members
- In order to provide a customer making approximately $30,000 a year a $500 loan the maximum payment percentage would need to be set approximately at 15%

Our customers' needs for a loan on average are far greater than $150. And as the CFPB should be aware, the revenue generated on loans in this 5% size would result in such a drastic reduction in our revenue that I doubt we would be able to continue in business. In addition, this rule not only limits lenders, it seriously curtails credit opportunities for consumers. This is just as much a limit on a consumer's financial freedom as our ability to continue in business. This will hurt our low to moderate income borrowers who have no other borrowing options.

## CFPB Should Examine How its Proposal Would Impact Different Products in Different States and Re-Convene the SBREFA Panel

I am sure CFPB will receive written comments from several of the 26 other small businesses that are participating in this SBREFA process. Undoubtedly, many of them will point out how a specific short-term lending product works in a particular state. As I pointed out earlier, I continue to be frustrated that CFPB did not break out how its proposals would impact small businesses. I am also upset that CFPB did not break out how its proposals would work with regard to specific products in different states. It was evident at our face-to-face meeting with the CFPB on April 29th that the CFPB did not have an idea of how an installment loan is treated differently than a single-pay loan in different states. How can I, as a small business owner provide value-added input to the SBREFA process, when the administrators for the process do not understand the underlying product set? It is not a matter of regulating one product. Yet, the CFPB had proposed a one size fits all large company approach that will crush the small business owner.

I believe CFPB cannot benefit from my input and from the input of other small business owners who are part of the SBREFA process without breaking down how *its proposals* would work product by product and state by state. For instance, CFPB should look at a state like Utah that has ATR standards, mandatory Extended Payment Plans (EPP), requirements for pay-downs of principal, informed-customer choices for rollovers, and tough standards for collection practices. Why hasn't CFPB looked at Utah as a baseline for me and other SERs to consider when it convened the SBREFA panel?

I operate in Illinois and that state provides another example for CFPB to consider when it is crafting industry-wide standards for short-term lending products. I encourage CFPB to take my observations of the Illinois legal and regulatory framework and analyze how small businesses may be impacted by applying some of the Illinois approaches through a CFPB regulatory proposal. The CFPB should conduct that research and then re-convene the SBREFA panel in order to learn from me and the other small business owners who were in Washington, DC on April 29th.

**The CFPB's use of a Bank and Credit Union Initiative as a Baseline is Trying to Turn Apples into Oranges**

There is little similarity between the operations of a bank or credit union and a small loan lender. In the FDIC bank and credit union pilot program for small dollar loans, half of the institutions in the study required the consumer to link a *savings* account to the loan. We believe that *all* banks and credit unions in the study had other deposit relationships, such as a checking account, with all participating consumers.

Banks have a common law "right to set off" against their customers. Meaning a bank can satisfy a consumer liability by taking the amount of that inability out of any consumer asset they hold. Based on this right to set off, banks have a silent security interest in consumer deposits that effectively serve as collateral against any loans they make.

To take rules that previously appear to have worked for banks and assume non-bank lenders can follow the same rules is trying to turn apples into oranges. The loans we make are unsecured. We do not hold any deposits of a consumer that allow us to set off against their debt.

In addition, comparing a bank or credit union's costs of funds of .25% today to our cost of funds which is in the 15% range, it is unfair to impose rate caps of any kind based on bank programs. If a bank borrows money at .25% and lends at 18%, it is lending at 72 times its cost of funds. If we were permitted the same latitude, our APR's would cap out at over 1000%.

In addition, the impact of the loss of processing options and the negative publicity from the CFPB on small dollar lending had driven our cost structure up exponentially over the last two years. Processing costs have more than tripled and borrowing costs to us have likewise increased. It's another bad assumption when you speculate that our cost structure is in line with that of a bank.

The following table illustrates the duration analysis for studies conducted by the FDIC, NCUA and CFPB.

**Duration Analysis**

| | Month 1 | Month 2 | Month 3 | Month 4 | Month 5 | Month 6 | Month 7 | Month 8 | Month 9 | Month 10 | Month 11 | Month 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| FDIC Short Term Lending Pilot Program | Average Duration - 12 months (Range 90 days to two years) | | | | | | | | | | | |
| NCUA Payday Alternative Program | Duration - 6 Months | | | | | | | | | | | |
| CFPB Proposed Guidelines | Duration - 1.5 Months* | | | | | | | | | | | |

**Assumes majority of customers are paid semi-monthly or bi-weekly which industry data supports*

## The CFPB's Data Pool

We keep hearing that the CFPB is proposing new regulations based on their conclusion of the need for consumer protection based on data they have gathered. However, the CFPB has refused to share that data, and we are at a loss to understand where these proposed rules are coming from. Whatever "studies" they have also seem to be contrary to recent studies and information published by third parties and other federal agencies. For example, a 2009 study by the Federal Reserve Bank in New York found:

> Although much maligned for its high prices, payday credit can be cheaper than overdraft credit. The median price for overdraft credit in 2006 was a flat $27 per overdraft (FDIC 2008). The typical price for payday credit is $15 per $100 of credit. Given two weeks of credit at those prices, payday credit is cheaper than overdraft credit for overdrafts below $180. According to the FDIC (2008), the median overdraft at POS, ATM, and check transactions was $20, $60, and $66 in 2006 implying payday credit would be the cheaper substitute for at least half of depositors. Our paper investigates how the availability of payday credit affects overdraft fees and the supply of "free" checking accounts, the base good with which overdraft services are bundled. We estimate the effect of payday credit using two different identification schemes. The first, following Morgan and Strain (2008), compares how outcomes change as states switch from allowing to prohibiting payday credit, or vice versa. The second, following Melzer (2009), focuses on states that prohibit payday credit, and compares outcomes at institutions located near the border of a state that allows payday credit with outcomes at institutions located further from such a border.
>
> The identifying assumption for the first scheme is that legal changes within states are independent of overdraft outcomes, a plausible, if arguable, assumption. The identifying assumption for the second scheme is that the payday laws and location of intermediaries in one state are independent of laws in neighboring states, a less arguable assumption it strikes us. Importantly, the identifying assumptions of these two models are independent, which strengthens the overall research design. Except perhaps in the most concentrated deposit markets, we find that banks and other depository institutions raise fees on overdraft credit and reduce the supply "free" checking accounts when payday credit is available. The changes are similar in both models, and are economically meaningful; the price of overdraft credit increases by $1, or 4 percent, and the likelihood of "free" checking falls by 5 percent.
>
> Although we entertain other explanations for our findings, we attribute them partly to adverse selection created by the curious flat-fee pricing of *overdraft credit.*

According to the FDIC 2008 (Table IV.2 p. 14), 98.4 percent of depository institutions charge per overdraft. White (2007) contends that banks eschew charging explicit interest to avoid regulation as credit and hence, usury limits. Banks may also want to avoid the adverse publicity that quadruple digit interest rates might incite. Flat fee ("buffet-style") pricing of overdraft credit disadvantages depositors prone to small overdrafts, and so exposes overdraft providers to adverse selection. Once payday credit priced ala carte becomes available, depositors prone to smaller overdrafts switch, saddling banks and credit unions with proportionately more depositors prone to large overdrafts.

http://www.newyorkfed.org/research/staff_reports/sr391.pdf

So "payday" loans are a better deal for at least half of all consumers, banks avoid moving away from a fixed dollar NSF fee to avoid disclosing the fee as an APR (unlike small dollar lenders who are given no choice), and the banks find that even "payday" loans cut into their profitability. And the only real difference between the payday loans studies and bank overdraft fees (other than the fact that loans are cheaper alternatives for most consumers)? Banks have the option of calling the charges a fee, where small business lenders must convert those charges into an APR.

What we have now is that the CFPB is proposing rules that may negatively impact half of all consumers and drive small business out of business. It is difficult to see anything positive in these new rules with such "lose-lose" scenarios.

As the following table shows here are some of the alternatives to short term lending:

Alternatives to Short Term Lending

| | Proactive/ Reactive | Credit Necessary | Bank Bounce fee | Merchant Bounce Fee | Fee Per Hundred Borrowed | Overdraft Fee | Average Bounces in Month | Duration Days needed | Proposed Cool Off | Total Cost | APR | Cost of Funds/ Bank / Private | Variance |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Bouncing Checks | Reactive - Illegal | $ 300.00 | $ 32.00 | $ 25.00 | N/A | | 3.0 | 7 | N/A | $ 171.00 | 2972.00% | Bank - 0.25% | 3.4 |
| Short Term Loan | Proactive | $ 300.00 | | | $ 17.00 | | N/A | 7 | 60 days | $ 51.00 | 886.00% | Private - 15% | Base |
| Overdraft Protection | Reactive - | $ 300.00 | | | | $30.00* | 3.0 | 7 | N/A | $ 90.00 | 1564.00% | Bank - 0.25% | 1.8 |

*Moebs Study 2014 of 1,890 banks

**Takeaways:**

- Bouncing checks can cost consumers 3X what taking out a proactive short term loan costs
- Overdraft protection can cost consumer 1.8x what taking out a proactive short term loan costs
- **Deploying a 60 day cool off on short term loans would harm consumers and push them to higher cost forms of credit**

Perhaps the CFPB has data that supports their position, and in that regard it would be beneficial to all to see it.

**Auto Title Loans**

In addition to my frustration over the lack of small business analysis specific to payday lending, I am shocked that the CFPB would include restrictions on auto title loans with virtually no mention of any research related to title loans. On page 53 of CFPB's 57-page proposal issued on March 26, 2015, the Bureau explained that it "does not believe the proposals could affect the availability of credit to small entities." However, a simple google search using the terms, "title loan" and "small business impact" reveals a study by a George Mason University Law School professor who researched the subject and found that 25-30% of title loans made by businesses like mine go to small businesses. *In my opinion, the CFPB* should do research, publish the results, and re-convene the small businesses in Washington to provide feedback before moving forward with its proposal.

**THE CFPB's "Floor" on Rates Undermines States Ability to Work in the Best Interests of Their Citizens**

**Illinois**

In its 2010 legislative session, the Illinois General Assembly passed legislation with nearly unanimous, bipartisan support (a single House Republican voted no) to reform short term consumer lending in the State. The bill was actively supported by Attorney General Madigan and signed into law by Governor Quinn. Several consumer groups endorsed the legislation and while many payday lenders opposed the bill until the very last week prior to passage, licensed and regulated payday lenders who were members of CFSA supported it from its inception.

The Illinois law mandates fee caps, depending on the product, has ability to repay standards, limits on frequency of borrowing, incentivizes extended payment plans (EPP), and sets standards for collection practices.

States have already taken action, or deferred from taking action, to regulate small dollar lending. Many of these laws are new, having been passed within the last couple years. Meaning whatever data the CFPB is using likely does not include the positive effects of these new laws.

In this regard, we believe any rulemaking by the CFPB is premature, especially in light of the fact that the CFPB has refused to share the data upon which it claims to have relied upon in determining that it must act in the interest of consumer protection.

**Installment as an Option for Extended Payment of Single-Pay Short Term Loans**

We support providing credit to our customers when and how they wish to have it. We also support providing responsible credit alternatives to our customers to help "off ramp" out of the loan product. In our opinion, a fully amortizing loan of no greater than 6 months in duration is a viable product to achieve such a goal. Illinois law allows such an approach and the CFPB should look at how the Illinois legal and regulatory framework operates, analyze how small business would be impacted with such a model scaled nationally, and then reconvene the small business representatives to provide constructive feedback.

In Illinois, the Principal Payment Reduction Loan (PPRL) gives our customers the option of borrowing the credit they desire with a single payment option at the loan term or a required reduction of principal for each payment until the loan is paid in full. The Illinois system premises its consumer protections on:

- Principal pay down included in each and every payment
- No balloon payments
- All loans allow an early payoff without penalty

- Any loans that are paid off early the last payments fee/interest amount is *simple* daily interest to ensure that a consumer does not pay one day more interest than they have the loan
- The lender encourages early payoff in the event the consumer can without hardship
- The lender offers two forms of repayment for the loan payments (debits).
    - These forms could include: Cash, Check, ACH, Debit Card, Credit Card, RCC, etc.
    - i.e. ACH is offered for not only customer convenience but also for it to work for lenders utilizing the NACHA rules
- Affordability –
    - Align payments to the consumers pay dates.
    - Requirement that repayment schedule aligns with the customers' employment pay schedule (over 80% of consumers get paid bi weekly or semimonthly and payments are aligned accordingly).
- Payment Reminder – Each lender provides a payment reminder to the customer at least three days prior to a payment being due as long as the customer has opted into email as a mode of secure communication

**Conclusion**

While I greatly appreciate the opportunity to participate in the SBREFA process, I remain frustrated that CFPB did not do basic analysis of how various states have struck a balance between consumer protections and access to short-term lending products. I am hopeful that my comments and the comments of other SERs impress upon CFPB to research how states treat different short-term lending products, to publish their findings, and then to bring the SERs back together to comment constructively on how to provide consumer protection without forcing a business like mine to close.

Sincerely,

Bob Zeitler
CEO/Owner

[redacted] [redacted]

**Fwd: Letter**

**From** [redacted] Mon, May 11, 2015 11:36 AM
**Subject :** Fwd: Letter
**To :** [redacted]

To Whom It May Concern:

I use [redacted] when I need quick cash and don't want to take out a small loan at the bank/credit union. It is very convenient having [redacted] available for my needs when I get into a bind. If this service was no longer available I am not sure where I would turn to get quick cash. Yes the interest is high, but customers know this when they ask for a loan. I don't think it is fair that a customer would complain about the interest knowing it is high before they sign any agreement. The customer needs to take responsibility of the contract they sign. I am glad this service is there.

[redacted]

==================

[redacted]

5-11-15

I [redacted] use [redacted] For Short Term Reasons only. The Short Term Loans are Very beneficial and serve the purpose for which they were intended.

[redacted]

To whom it may concern: My name is [redacted]. I've been a customer of [redacted] Loans for about 5 years. The staff here is not just professional, there also Respectful and Compassionate and treat all customers with Love. Because of them I still own a home. Thanks to [redacted] I have a place to help me when I need that extra cash to hold me over.

Sincerely

[redacted]

May $12^{th}$, 2015

To whom it may concern,

I am writing this letter as an advocate for the existence of Payday Loan establishments. I have used the services of various establishments in this industry for over 10 years now. I understand that their services are for short term financial needs and not in any way a long term financial solution. I have used their services sometimes weekly, but for the most part, there has been months, if not years, in-between my need for their service. I am a married father of four and I am responsible with my finances. However, as most people know, there comes times when money is stretched thin. That is where my responsible use of these establishments comes in. I would much rather pay a few days of interest on a high interest rate loan, than have to risk paying $35 per transaction of overdraft fees that my bank would charge me if my account would happen to overdraw. The convenience, flexibility, and risk mitigation that the Payday Loan provides me is well worth the small amount of daily interest that I pay. If there is a problem to be considered, I would think that the fees that commercial banks are allowed to charge would be a bigger problem. This is why I use Payday Loan establishments. There have been a couple too many occasions in the past where I had to pay $105 in overdraft fees from my bank, on my morning coffee, gas for my car, and my burger and fries at lunch, just because something unexpected cleared my account that same day. Or if the mortgage is coming out of my account on a Wednesday and I don't have enough money to cover it until my paycheck hits that Friday, then I use these services. Whatever the reason, if I know that I'm running my account down that close to the bottom, then I can make use of these services to end up saving me money in the long run. Without the existence of these services, my financial situation would probably be worse and my bank would be a little more profitable.

Thank you for your consideration,

[redacted]