January 21, 2020

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219
Submitted electronically via regulations.gov

Re: Comments on OCC Notice of Proposed Rulemaking, Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred, 12 CFR Part 7 and Part 160, Docket ID OCC-2019-0027, RIN 1557-AE73

Dear Comptroller Otting:

I. Introduction and Overview

The **Center for Responsible Lending**,[1] **National Consumer Law Center** (on behalf of its low income clients),[2] **Americans for Financial Reform Education Fund**,[3] **Consumer Federation of America**,[4]

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[1] The **Center for Responsible Lending** (**CRL**) is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. Over 37 years, Self-Help has provided over $7 billion in financing through 146,000 loans to homebuyers, small businesses, and nonprofits. It serves more than 145,000 mostly low-income members through 45 retail credit union locations in North Carolina, California, Florida, Greater Chicago, and Milwaukee.

[2] Since 1969, the nonprofit **National Consumer Law Center®** (**NCLC®**) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

[3] **Americans for Financial Reform Education Fund** (**AFREF**) works in concert with a coalition of more than 200 consumer, investor, labor, civil rights, business, faith-based, and community groups to lay the foundation for a strong, stable, and ethical financial system. Through policy analysis, public education, and outreach, AFREF works for stronger consumer financial protections and against predatory practices.

[4] **The Consumer Federation of America** is a nonprofit association of more than 250 national, state and local consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education. For over 50 years CFA has been at the forefront of consumer protection with a broad portfolio of issues including product safety, banking, telecommunications, investor protection, energy, housing, insurance, privacy and saving. CFA's non-profit members range from large organizations such as Consumer Reports and AARP, to small state and local advocacy groups and include unions, co-ops, and public power companies.

Leadership Conference on Civil and Human Rights,[5] **NAACP**,[6] **National Association for Latino Community Asset Builders (NALCAB)**,[7] **Public Citizen**,[8] and the **United States Public Interest Research Group (U.S. PIRG)**,[9] strongly oppose the Office of the Comptroller of the Currency (OCC)'s proposed rule on Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred (proposal or proposed rule).[10] The proposed rule would allow predatory non-bank lenders to launder their loans through banks to evade state interest rate caps. The proposal is outside the OCC's statutory authority; it is not justified by any evidence of problematic impact on legitimate bank operations; and the OCC has failed to consider the strong likelihood that the proposal will unleash a torrent of predatory lending. The proposal will take away powers that states have had since the time of the American Revolution to protect their residents.

Our concerns are not speculative. The OCC has directly supported the claim that a predatory non-bank lender, World Business Lenders, can charge 120% APR on a $550,000 loan despite Colorado law to the contrary. In that context, the OCC used the same Chicken Little claims and revisionist history it uses to justify this proposal. The OCC has failed to restrain Axos Bank, a federal savings bank, from fronting for WBL on horrific loans—often personal loans disguised as business loans—including a 138% APR $90,000 mortgage, a 92% APR $175,000 mortgage, and a 73% APR $28,000 mortgage. In the consumer space,

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[5] The **Leadership Conference on Civil and Human Rights** is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. Through advocacy and outreach to targeted constituencies, The Leadership Conference works toward the goal of a more open and just society - an America as good as its ideals. The Leadership Conference is a 501(c)(4) organization that engages in legislative advocacy. It was founded in 1950 and has coordinated national lobbying efforts on behalf of every major civil rights law since 1957.

[6] Founded in 1909, the **National Association for the Advancement of Colored People** (hereinafter **NAACP**) is our nation's oldest, largest and most widely known grassroots civil rights organization. The principal objectives of NAACP are to ensure the political, educational, social and economic equality of all citizens; to achieve equality of rights and eliminate racial prejudice among the citizens of the United States; to remove all barriers of racial discrimination through democratic processes; to seek enactment and enforcement of federal, state and local laws securing civil rights; to inform the public of the adverse effects of racial discrimination and to seek its elimination; to educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof.

[7] **National Association for Latino Community Asset Builders** (**NALCAB**) represents and serves a geographically and ethnically diverse group of more than 120 non-profit community development and asset-building organizations that are anchor institutions in our nation's Latino communities. Members of the NALCAB Network are real estate developers, business lenders, economic development corporations, credit unions, and consumer counseling agencies, operating in 40 states and DC.

[8] **Public Citizen, Inc.**, is a consumer-advocacy organization founded in 1971, with members in all 50 states. Public Citizen advocates before Congress, administrative agencies, and the courts for the enactment and enforcement of laws protecting consumers, workers, and the general public. Of particular relevance here, Public Citizen advocates for strong consumer-protection laws to bring fairness to consumer finance and accountability to the financial sector. Public Citizen actively supported establishment of the CFPB to serve as the first federal agency devoted to protecting the financial interests of consumers.

[9] **The United States Public Interest Research Group, Inc**. (**U.S. PIRG**) is an independent, non-partisan organization that works on behalf of consumers and the public interest. Through research, public education, outreach, and litigation, it serves as a counterweight to the influence of powerful special interests that threaten the public's health, safety, or well-being.

[10] 84 Fed. Reg. 64229 (Nov. 21, 2019).

predatory rent-a-bank lending is happening through FDIC-regulated banks. More OCC-supervised banks are likely to follow if this proposal is finalized.

Some online lenders are responsible market participants, complying with applicable law, not evading state interest rate limits, and succeeding through efficiencies in operations, customer acquisition, and underwriting. But others seek competitive advantage by avoiding state usury laws. Some flood the market with loans at interest rates and fees of 60% to 180% APR or higher that most states ban. State-regulated lenders are increasingly looking to federal bank regulators to help them avoid state laws against high-cost loans and predatory lending.

This proposal follows in the heels of the OCC's earlier attempt, which has failed to date, to allow non-bank lenders to evade state rate caps through a special purpose charter under the National Bank Act (NBA).[11] The OCC is now offering lenders another approach to avoiding state law, namely the so-called "bank partnership model," which this proposal threatens to endorse by broadly validating a wide array of arrangements by which a nonbank might assert a bank's exemption from state usury law.

The loans this proposal would encourage by facilitating rent-a-bank schemes are among the most exorbitantly priced, irresponsible, ugly loans on the market. These include the loans currently being peddled through these schemes: high-cost installment loans and lines of credit, typically directly accessing the borrower's checking account on payday; car title installment loans; subprime business loans; and mortgages masquerading as business loans. In addition, the proposal could bring back the rent-a-bank balloon-payment payday and car title loans that have not used rent-a-bank schemes since the mid-2000s but that used the same legal arguments and similar arrangements to justify their schemes.

Our comment makes the following points in turn:

- The OCC lacks authority under Section 85 to establish permissible rates for non-banks.
- The OCC wholly fails to meet the procedural requirements of Section 25b or to show that its proposal is necessary to avoid significant interference with a bank power.
- The proposal usurps the States' historical and constitutional role in our federalist system.
- The OCC fails to consider the risks the proposal poses to consumers and small businesses:
    - Bad actors are already engaged in predatory rent-a-bank schemes, which the OCC and FDIC are not restraining.
    - The OCC is supporting and has failed to address predatory rent-a-bank lending by an OCC-supervised bank in the small business area.
    - Payday lenders in California have explicitly stated plans to broadly expand rent-a-bank schemes; the proposal would embolden these and other new schemes.

[11] *See Lacewell v. Office of the Comptroller of the Currency* (No. 18-cv-8377) (ruling in favor of the NY Dept. of Financial Services in striking down the OCC's special purpose charter for "fintechs"). The OCC is appealing the decision.

- The proposal would embolden additional auto title lending through rent-a-bank schemes.
- The proposal's statement that it does not address "true lender" is cold comfort, as the proposal effectively encourages, rather than guards against, evasion of state law through rent-a-bank schemes.
- The proposal could encourage short-term payday lenders to return to rent-a-bank lending.
- The proposal fails to consider that high-cost lenders that are or will be engaged in rent-a-bank lending make loans that severely harm financially vulnerable consumers.
- The proposal is inconsistent with the agency's obligations under the Community Reinvestment Act.

- The OCC fails to consider the risks the proposal poses to the safety and soundness of national banks.
- The OCC fails to consider the proposal's impact on market participants that comply with state law.

II. The OCC lacks authority under Section 85 to establish permissible rates for non-banks.

A. Section 85 of the NBA and similar authority in HOLA do not provide the OCC the authority to establish permissible rates for non-banks.

The interest rate exportation provision of the National Bank Act, 12 U.S.C. § 85, the primary authority upon which the proposal attempts to rely, does not provide the OCC the authority to establish permissible interest rates for non-banks. The same is true of the rate exportation provision of the Home Owners' Loan Act, 12 U.S.C. § 1463(g), which governs federal savings associations. Since the authority is the same under both statutes, we will focus our discussion on Section 85 of the NBA.

Section 85 unambiguously provides the agency the authority to regulate interest rates only for a "[national bank] association."[12] It says nothing whatsoever about rates that any non-bank entity may charge or that the assignees of a bank may charge. The interest rate that a national bank may charge is not at issue in the proposal. Thus, Section 85 provides no authority here. As *Madden v. Midland Funding* observed, Section 85 is limited to national banks and does not govern the rated charged by non-bank

[12] 12 U.S.C. § 85. *See also* 12 U.S.C. § 1463(g) (preempting state usury laws regarding the interest "a savings association may charge").

assignees,[13] and the alternative "would create an end-run around usury laws for non-national bank entities that are not acting on behalf of a national bank."[14]

Contrary to the OCC's assertion, Section 85's authority for national banks to charge home state rates, even when read in conjunction with bank powers to lend money and to make contracts, does not create the power to authorize non-bank assignees to charge interest at rates not permitted under state law.[15] Rather, loan assignment is a power discrete from Section 85. The NBA delineates the power to assign loans as "an additional power" of national banks in Section 24(Seventh) of the NBA.[16] Thus, to the extent that the OCC has the authority to preempt state laws that may impact the power of assignment, that authority is found outside of Section 85.

The Third Circuit[17] and numerous other courts have observed that section 85 (or the rate exportation provision of the FDIA) is limited to banks themselves in the context of rejecting arguments that the NBA either completely preempts[18] or provides a substantive defense[19] to usury claims against non-bank

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[13] *Madden v. Midland Funding, L.L.C.*, 786 F.3d 246, 250 (2d Cir. 2015). The *Madden* court cited *SPGGC, LLC v. Blumenthal*, 505 F.3d 183, 191 (2d Cir. 2007), which held that state limits on gift card fees charged by a nonbank, not by the national bank that issued the cards, were not preempted by the National Bank Act or federal bank regulations that authorize banks to charge such fees. *See also Citibank v. Martin*, 807 N.Y.S.2d 284 (N.Y. Civ. Ct. 2005).

[14] 786 F.3d at 252. *See also Eul v. Transworld Systems*, No. 15C7755, 2017 WL 1178537 (N.D. Ill. Mar. 30, 2017); *In re Cmty. Bank of N. Va.*, 418 F.3d 277 (3d Cir. 2005) (finding no complete preemption of claim against assignee because "Sections 85 and 86 of the NBA and Section 521 of the DIDA apply only to national and state chartered banks, not to non-bank purchasers of second mortgage loans such as RFC"); *Community State Bank v. Knox*, 523 Fed. Appx. 925 (4th Cir. 2013) (no complete preemption where consumer asserts claims against parties other than the bank, here payday lenders who claimed to be agents of an out-of-state bank).

[15] *See* OCC Proposal, 84 Fed. Reg. at 64230-31.

[16]Section 24(Seventh) of the NBA authorizes national banks "to carry on the business of banking" by "discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt"; see also C.F.R. § 7.4008(a) ("A national bank may make, sell, purchase, participate in, or otherwise deal in loans . . .").

[17] *In re Cmty. Bank*, 418 F.3d 277, 296 (3d Cir. 2005) ("Sections 85 and 86 of the NBA and Section 521 of the DIDA apply only to national and state chartered banks, not to non-bank purchasers of second mortgage loans such as RFC.").

[18] *Colorado ex rel. Salazar v. ACE Cash Express, Inc.*, 188 F.Supp.2d 1281 (D. Colo. 2002) ("the NBA 'regulates national banks and only national banks . . . '" (quoting *Weiner v. Bank of King of Prussia*, 358 F.Supp.684, 687 (E.D. Pa. 1973)); *Flowers v. EZPawn Okla., Inc.,* 307 F. Supp. 2d 1191 (N.D. Okla. 2004) ("The question of whether plaintiff's state law claims would be preempted by DIDA if brought against County Bank, however, is not the issue before the Court . . . . The state action claims are asserted against EZPawn and EZCorp, neither of which is a state-chartered, federally insured (or national) bank.").

[19] *See Eul v. Transworld Sys.,* 2017 WL 1178537 (N.D. Ill. Mar. 30, 2017) ("it is not so clear that NBA preemption applies to assignees of loans originated by national banks…. The Court is not persuaded that NBA preemption applies here as a matter of law."); *Goleta National Bank v. Lingerfelt,* 211 F. Supp. 2d 711 (E.D.N.C. 2002) ("the NBA patently does not apply to non-national banks"). Even where courts find preemption, it is because the facts show that the bank is the real party in interest. *See Krispin v. May Department Store,* 218 F.3d 919 (8th Cir. 2000); *Discover Bank v. Vaden*, 489 F.3d 594, 601 (4th Cir. 2007) (finding bank is real party in interest, but if it is not, "the FDIA does not apply because [the named defendant] is not a bank"), *rev'd and remanded*, 556 U.S. 49 (2009).

assignees. Yet that is exactly what the OCC is trying to achieve here: preemption of state usury claims against non-bank assignees.

HOLA[20]and similar rate exportation language under the FDIA[21] are similarly limited in scope to the interest charged by banks themselves.

That Section 85 does not extend to non-banks is reinforced by other statutory provisions. In Section 25b, after federal preemption played major role in creating the financial crisis of 2008, Congress made clear that Section 85 does not extend to bank affiliates, subsidiaries, or agents; it defies logic that Congress would have intended it to extend to unaffiliated non-banks (see section III below).[22] While Section 25b does not alter or affect the authority of a "national bank" to make loans under Section 85, the section makes no reference to any authority of non-bank assignees to charge interest.[23] Indeed, courts that have found preemption of state usury laws in situations involving assignees generally did so in a context where the assignee was related to the bank *and* before Congress overturned preemption for subsidiaries, affiliates and agents.[24]

Further, in earlier legislation extending rate exportation to the out-of-state branches of state-chartered banks, Congress explicitly preempted state law for non-banks in the context of first lien mortgages, including when non-banks are assignees of national bank loans.[25] Congress's specific action in this context indicates a lack of authority for the OCC to act more broadly under Section 85. It also suggests that, had Congress subsequently or otherwise intended to preempt state law for non-banks in other contexts, it would have. The NBA and HOLA have no such provision and there is no evidence that the purported valid-when-made theory, discussed below in section B, was incorporated into interest rate provisions that are strictly about banks.

The statutory intent of Section 85 also underscores the point. Since our country's founding, States have protected their citizens from financial abuses, setting standards for lenders with respect to terms of credit, as well as the allowable methods of collecting debts. Congress enacted the NBA during the Civil

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[20] See 12 U.S.C. § 1463(g) (preempting state usury laws regarding the interest "a savings association may charge"); *Cf.* McShannock v. JP Morgan Chase Bank, N.A., 354 F. Supp. 3d 1063 (N.D. Cal. 2018) ("even if Congress and OTS, subsequent to HOLA's enactment, contemplated federal savings associations' selling of mortgage loans in the secondary market, there is no indication in the subsequent legislative history that Congress intended HOLA preemption to continue to apply to loans sold to non-HOLA entities").

[21] *BankWest, Inc. v. Baker*, 411 F.3d 1289 (11th Cir. 2005), *reh'g granted, op. vacated,* 433 F.3d 1344 (11th Cir. 2005), *op. vacated due to mootness, 446 F.3d 1358* (11th Cir. 2006); *Community State Bank v. Knox*, 523 Fed. Appx. 925 (4th Cir. 2013) (no complete preemption where consumer asserts claims against parties other than the bank, here payday lenders who claimed to be agents of an out-of-state bank); *Commonwealth v. Think Fin., Inc*., 2016 WL 183289 (E.D. Pa. Jan. 14, 2016); *CashCall, Inc. v. Morrisey*, 2014 WL 2404300 (W. Va. May 30, 2014);

[22] 12 U.S.C. § 25b(b)(2), (3), and (h)(2).

[23] 12 U.S.C. § 25b(f).

[24] *See, e.g., Krispin v. May Department Stores*, 218 F.3d 919 (8th Cir. 2000)..

[25] 12 U.S.C. § 1735f-7a(a)(1)(C)(v). *See also* S. REP. 96-368, 1980 U.S.C.C.A.N. 236, 254-55 (1980) ("It is the committee's intent that loans originated under this usury exemption will not be subject to claims of usury even if they are later sold to an investor who is not exempt under this section.").

War in order to create a single national currency to finance the federal government's war effort.[26] In that context, as the OCC's proposal notes, Congress deemed it necessary to protect national banks from discrimination by States, and in particular state laws that might proscribe stricter interest rate limits for national banks than for state banks.[27] Accordingly, Congress enacted section 85 of the NBA to prohibit states from imposing upon national banks stricter interest rate caps than those that were otherwise lawful in states where the banks were located.[28] A century later, the Supreme Court extended the reach of section 85 to exempt national banks from interest rate caps in effect in any state except the state where the bank is *headquartered*. Additionally, common law principles of conflict preemption (now clarified and codified in section 25b of the NBA) protect national banks from interference by state laws that "prevent or significantly interfere" with national bank powers.[29]

Still, as the Supreme Court made plain soon after the NBA's enactment, and reiterated many times since, banks are "governed in their daily course of business far more by the laws of the States than of the nation."[30] Moreover, after the OCC exceeded its authority with a series of improperly over-reaching preemptive rules, Congress in 2010 added section 25b to the NBA to make clear the limits on the OCC's preemptive authority.

Section 85 has nothing to do with non-banks. Further, federal preemption is part and parcel with the obligation to submit to federal supervision. Once a loan is assigned, there is no federal bank supervision of the assignee. The legislative drafters certainly did not contemplate non-banks as beneficiaries of national interest rate preemption.

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[26] 12 U.S.C. § 38 ("The Act entitled 'An Act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof,' approved June 3, 1864, shall be known as 'The National Bank Act.'").

[27] 84 Fed. Reg. 64230.

[28] 12 U.S.C. § 85.

[29] *Barnett Bank v. Nelson*, 517 U.S. 25, 33 (1996).

[30] *National Bank v. Commonwealth*, 9 Wall. 353, 362 (1870) ("National banks] are subject to the laws of the State, and are governed in their daily course of business far more by the laws of the State than of the nation. All their contracts are governed and construed by State laws. Their acquisition and transfer of property, their right to collect their debts, and their liability to be sued for debts, are all based on State law. It is only when the State law incapacitates the banks from discharging their duties to the government that it becomes unconstitutional."); *see also Davis v. Elmira Savings Bank*, 161 U.S. 275, 290 (1896) ("Nothing, of course, in this opinion is intended to deny the operation of general and undiscriminating state laws on the contracts of national banks, so long as such laws do not conflict with the letter or the general objects and purposes of Congressional legislation"); *First Nat. Bank in St. Louis v. Missouri*, 263 U.S. 640, 656 (1924) (national banks "are subject to the laws of a State in respect of their affairs unless such laws interfere with the purposes of their creation, tend to impair or destroy their efficiency as federal agencies or conflict with the paramount law of the United States"); *Atherton v. F.D.I.C.*, 519 U.S. 213, 223, 117 S. Ct. 666, 672, 136 L. Ed. 2d 656 (1997); *Watters v. Wachovia Bank, N.A.*, 550 U.S. 1, 11 (2007) ("Federally chartered banks are subject to state laws of general application in their daily business to the extent such laws do not conflict with the letter or the general purposes of the NBA."); *Epps v. JP Morgan Chase Bank, N.A.,* 675 F.3d 315, 320 (4th Cir. 2012).

B. Neither the common law of assignment nor the purported valid-when-made theory gives the OCC authority to preempt state usury laws as to non-banks.

The proposal essentially asserts that, since common law generally allows assignment of contract rights, common law provides national banks the right to assign their *status* derived from the most favored lender doctrine. This is not so. This status is not an assignable contract right. It is a privilege national banks enjoy, provided by Section 85, because they are national banks. (The same is true for federal savings associations under HOLA.) As former Comptroller Hawke stated:

> "The benefit that national banks enjoy by reason of [preemption] cannot be treated as a piece of disposable property that a bank may rent out to a third party that is not a national bank. Preemption is not like excess space in a bank-owned office building. It is an inalienable right of the bank itself."[31]

Indeed, the OCC acknowledges three exceptions to this "normal" rule of assignability, one of which is where the contract involves "obligations of a personal nature."[32] Though the bank's preemptive status is a right of the bank and not an obligation, the notion is informative. It is a right "personal" to the national bank derived exclusively from its status as a national bank, and it may not be assigned.

Just because something is legal under a contract for one party does not mean that it is legal for an assignee. Banks may accept deposits, but they could not assign a deposit agreement to a non-bank and thereby give it the legal right to accept deposits and receive deposit insurance. Someone who is ineligible for or has failed to follow the requirements for a license to run a food service business cannot get into that business by purchasing a restaurant contract with a mall and arguing that the contract gives them the right to run the restaurant. States give certain licensed lenders the authority to charge interest rates above the rates charged by older usury states, but that does not mean that all states will allow state-regulated entities to avoid licensing laws and state supervision by taking assignment of loans originated by licensed lenders but then quickly sold to unlicensed entities.

And just because a contract has a term, and contracts are generally enforceable, doesn't mean that every contractual term is enforceable. Usury laws exist to protect borrowers from lenders' overreaching regardless of the rate at which the parties could otherwise contract.[33]

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[31] Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Women in Housing and Finance at 10 (Feb. 12, 2002), https://www.occ.treas.gov/news-issuances/speeches/2002/pub-speech-2002-10.pdf.

[32] Proposal, 84 Fed. Reg. at 64239 (citing Williston on Contracts § 74:10 (4th ed.). The other two exceptions noted are where the assignment would materially change the duty of the obligor or materially increase the obligor's burden or risk under the contract. *Id.*

[33] Indeed, longstanding common law and usury jurisprudence holds that, in any event, contracts designed to evade state interest rate limits are unenforceable. *Miller v. Tiffany*, 68 U.S. 298, 307–10, 17 L. Ed. 540 (1863) (holding that while contractual choice of law provisions for usury are enforceable, when done with intent to evade the law, the law of the contract location applies). *See also Seeman v. Philadelphia Warehouse Co*., 274 U.S. 403, 408, 47 S. Ct. 626, 628, 71 L. Ed. 1123 (1927) (echoing holding in *Miller v. Tiffany* that "the parties must act in good faith, and that the form of the transaction must not 'disguise its real character'"); *Stoddard v. Thomas*, 60 Pa. Super. 177, 181 (1915) (noting that in deciding choice of law provisions, "[a] person may contract to pay at the rate of interest of the place of the contract or the place of performance unless the place is fixed to escape the usury laws").

The purported "valid when made" principle gives the OCC no authority to preempt state usury laws as to non-bank entities. The OCC makes a dramatic leap from the authority of Section 85 and 1463(g) to ancient caselaw interpreting state usury laws in contexts very different from the instant one. The OCC offers no support for the idea that the purported valid-when-made doctrine—which it has misinterpreted—has anything whatsoever to say about the agency's authority under the NBA and HOLA.

First, and most important, the cases that the OCC cites in support of valid-when-made are interpreting state usury law, which the OCC lacks the authority to interpret—not federal banking law. At best, those cases and other common law doctrines could be relevant to an assessment of whether state usury laws significantly interfere with the power of banks (but, as discussed below, the OCC has failed to show any significant interference). But there is not the slightest bit of evidence that Congress incorporated those principles into the rate exportation provisions of NBA and HOLA, which, as discussed above, are strictly limited to the rates that banks can charge. Indeed, the complete preemption and true lender caselaw mentioned above says the opposite: that the NBA and HOLA are limited to the interest rates that banks can charge, not their assignees.

Second, the purported valid-when-made cases the agency cites as support do not even stand for the principle that the OCC claims. The OCC relies in particular on two 19th Century Supreme Court cases interpreting state usury laws.[34] Those cases merely hold that the interest rate on a loan will not be *recalculated*—potentially resulting in a higher, usurious rate—based on subsequent transactions. This means, for example, that a loan at a legal rate will not become usurious later if it is sold at a discount (so that the effective rate of return for the purchaser is higher than for the original lender) or if a note is pledged as security for a second, usurious transaction.[35] Neither of those cases addresses the situation where the assignee is subject to a different set of laws, much less whether a state-regulated lender governed under state usury law may be assigned a loan at the rate permitted only to the entity exempt from state interest rate limits. Indeed, this situation could not have even existed prior to the enactment of the NBA and, in practice, not until the 1978 *Marquette* decision since, until then, banks were subject to state interest rate laws in the states where they made loans.[36]

The other case the OCC cites,[37] which does involve an assignee, is an interpretation of one particular state law, not an interpretation of the NBA or HOLA, and does not support the OCC's assertion of authority to propose the instant rule.

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[34] *Nichols v. Fearson*, 32 U.S. (7 Pet.) 103, 109 (1833) and *Gaither v. Farmers & Mechs. Bank of Georgetown,* 26 U.S. (1 Pet.) 37, 43 (1828). In these cases, the Supreme Court held that imputed interest on the discount on the later sale of a loan could not be added to the stated interest on the original loan—addressing whether the assignor had violated usury, not the assignee.

[35] For a longer discussion, see Amicus Curiae Brief of Professor Adam J. Levitin In Support Of Appellant, *Rent-Rite Super Kegs West., Ltd*., No. 1:19-cv-01552-REB (D. Colo. Sept. 19, 2019).

[36] While national banks can charge the higher of the rate of the state where they are located or a federal rate, that federal rate has been so low that banks generally charge the state law rate.

[37] *Olvera v. Blitt & Gaines, P.C.*, 431 F.3d 285, 286, 289 (7th Cir. 2005) (interpreting Illinois law). In *Rent-Rite Superkegs West. Ltd*., 603 B.R. 31 (Bankr. D. Colo. 2019), the court, like the OCC, relied on cases interpreting state laws; misinterpreted the older usury cases that do not address whether an assignee is subject to a different set of laws; cited pre-Dodd-Frank cases dealing with subsidiaries; and relied on other inapposite cases. In *Phipps v. F.D.I.C.*, 417 F.3d 1006 (8th Cir. 2005), the bank itself, and not the nonbank, was the entity that charged the

Indeed, despite the claim that *Madden* overturned a cardinal rule of usury, the Second Circuit in *Madden* did not even address what state usury law permits or whether New York usury applied (as opposed to Delaware law, which does not limit interest rates, as specified in the contract).[38] The Second Circuit in Madden appropriately conducted the three step analysis that the OCC has blithely ignored:

- First, does the NBA address the interest rates that non-bank assignees may charge? The answer is clearly no.
- Second, would applying state usury laws to the non-bank assignees in Madden (debt buyers) significantly interfere with the powers of a national bank? As discussed below, the answer is clearly no.
- Third, what does state usury law and state choice-of-law law permit? Those are state law issues outside the OCC's authority.

The purported valid-when-made theory is just a creative interpretation of state law usury cases in a different context that have nothing to do with the OCC's authority under Section 85 and 1463(g).

III. The OCC wholly fails to meet the procedural requirements of Section 25b or to show that its proposal is necessary to avoid significant interference with a bank power.

A. The OCC fails to meet the procedural requirements of Section 25b.

In 2010, Congress rebuked broad federal preemption, "which it believed planted the seeds 'for long-term trouble in the national banking system.'[39] "[T]he simple failure of federal regulators to stop abusive lending" [40] had been "a major cause" of "a financial crisis that nearly crippled the U.S. economy."[41] In the years leading up to the crisis, the OCC continued to staunchly defend preemption while ignoring the writing on the wall, clear to so many others: that foreclosures on predatory, unaffordable mortgage loans would bring the economy to its knees.[42] States had been preempted from regulating *any* mortgage

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interest. *FDIC v. Lattimore Land Corp.,* 656 F.2d 139 (5th Cir. 1981), held that state usury laws are not preempted when the bank is an assignee, not originator.

[38] In *Madden*, after finding that the NBA did not preempt state usury laws as applied to debt buyers, the Second Circuit remanded to the district court to address the usury law issue of whether the account's choice of law provision (Delaware law) determined the relevant state usury cap or whether New York's criminal usury statute applied. 786 F.3d at 254. Similarly, the Seventh Circuit allowed a debt buyer to charge the rates allowed for its assignor, but did so as a matter of Illinois law, not rate exportation. *See Olvera v. Blitt & Gaines, P.C.*, 431 F.3d 285 (7th Cir. 2005);

[39] *Lusnak v. Bank of America*, 883 F.ed 1185, 1189 (9th Cir. 2018) (quoting S. Rep. No. 111-176, at 2 (2010)).

[40] *Lusnak*, 883 F.ed 1189 (9th Cir. 2018) (quoting The Creation of a Consumer Financial Protection Agency to Be the Cornerstone of America's New Economic Foundation: Hearing Before S. Comm. On Banking, Hous., and Urban Affairs, 111th Cong. 82 (2009) (Statement of Travis Plunkett, Legislative Director, Consumer Federation of America)).

[41] *Lusnak*, 883 F.ed 1189 (9th Cir. 2018) (quoting S. Rep. No. 111-176, at 2 (2010)). *See also* Testimony of Eric Stein, Center for Responsible Lending, Before the Senate Committee on Banking, Housing and Urban Affairs Hearing (2008),

[42] Testimony of Martin Eakes, Center for Responsible Lending, Before the Senate Committee on Banking, Housing and Urban Affairs Hearing On The Office of the Comptroller of the Currency's Rules on National Bank Preemption

lender (bank or non-bank) on the very terms that made many mortgages dangerous: balloon payments, negative amortization, variable rates, and other nontraditional terms.[43] In 2006, national banks, federal thrifts, and their subsidiaries made 32% of subprime loans, 40% of Alt A loans, and 51% of interest-only and option ARM loans.[44] A total of over $700 billion in risky loans were made by entities that states could not touch. By enacting Section 25b, Congress aimed to "address an environment where abusive mortgage lending could flourish without State controls."[45]

Section 25b could not be clearer: "State consumer financial laws are preempted *only if*…in accordance with the legal standard for preemption in the decision of the Supreme Court of the United States in [*Barnett Bank v. Nelson*], the State consumer financial law prevents or significantly interferes with the exercise by the national bank of its powers."[46] Moreover, "any preemption determination under this subparagraph may be made…by regulation or order of the Comptroller of the Currency *on a case-by-case* basis."[47] Such case-by-case determination must be made in consultation with the Consumer Financial Protection Bureau (CFPB), taking the views of the CFPB into account.[48]

In particularly stark terms, Congress directed that "No regulation or order of the Comptroller of the Currency … shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless *substantial evidence, made on the record of the proceeding*, supports the specific finding"" [49] that a particular state law "prevents or significantly interferes with" [50] the exercise of a national bank power. In evaluating the legitimacy of any preemption rule, a reviewing court must consider "the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency," among other factors.[51] While section 85 exempts *banks* from state usury limits without such showing, any effort to expand such exemption to cover entities entity *other than a bank*—which impacts only the bank's power to sell loans, not to charge interest—requires the thorough consideration of substantial evidence demonstrating substantial interference with a power necessary to the business of banking.

Putting the matter beyond any conceivable doubt, Congress enshrined into statute, no fewer than three separate times, the principle that state laws, including state consumer laws governing the cost of credit, apply to bank affiliates and subsidiaries—except for those that are themselves chartered as banks—to

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and Visitorial Powers (2004), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/20040407_testimony_eakes_preemption.pdf.

[43] *See* The Financial Crisis Inquiry Commission, The Financial Crisis Inquiry Report, pgs. xxiii, 111-113, 126.

[44] *See* Lauren Saunders, National Consumer Law Center, "Restore The States' Traditional Role As 'First Responder'" (Sept. 2009), available at http://www.nclc.org/images/pdf/preemption/restore-the-role-of- states-2009.pdf.

[45] *Lusnak,* 833 F.ed at 1189 (quoting S. Rep. No. 111-176, at 17).

[46] 12 U.S.C. sec. 25b(b)(1)(B) (emphasis added); *see also Lusnak*, 833 F.ed at 1191-92 (Dodd-Frank made clear that Barnett is the legal standard for preemption).

[47] 12 U.S.C. sec. 25b(b)(1)(B) (emphasis added); *see also Lusnak*, 833 F.ed at 1191-92.

[48] 12 U.S.C. sec. 25b(b)(3); *see also Lusnak*, 833 F.ed at 1191-92.

[49] 12 U.S.C. § 25b(c) (emphasis added).

[50] 12 U.S.C. § 25b(b)(1).

[51] 12 U.S.C. § 25b(b)(5)(A).

the same extent they apply to any other non-bank entity. Congress made clear that this is true "notwithstanding" section 85. For example, section 25b(e) states:

> Notwithstanding any provision of [Title 62 of the Revised Statutes (which includes section 85)]…a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation or other entity subject to such State law.

Section 25b(b)(2) is to similar effect:

> [Title 62]…[does] not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

Section 25b(h) extends this same clarification to "agents" of national banks:

> Clarification of law applicable to nondepository institution subsidiaries and affiliates of national banks…
>
> No provision of [title 62]…shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).[52]

Three times Congress declared this rule, and three times it articulated its sole exception (for subsidiaries or affiliates chartered as national banks). Had Congress intended to add an exception for assignees, it would have done so. The clear language of section 25b forecloses the OCC's attempt to write into the statute an additional exception for assignees. This would produce the nonsensical result of privileging mere contractual counter-parties over subsidiaries, affiliates and agents of national banks—even those that are wholly owned by a national bank. There is no reasonable reading of the NBA that would support this outcome.

Finally, as to many rent-a-bank schemes, the explicit non-application of section 85 to agents is dispositive. As discussed in section B below, the non-bank assignees that service loans and charge interest typically do so under the fiction that they are only agents of the bank that is the nominal originator of the loan.[53]

Accordingly, the OCC has no power to preempt the application of state usury laws as to non-bank assignees unless it follows the Dodd-Frank procedural and substantive requirements. That requires a careful delineation, supported by substantial evidence on the record of a proceeding, that particular state laws significantly interfere with bank powers. The OCC does not even attempt such a showing.

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[52] 12 U.S.C. § 25b(h)(2).

[53] *Bank Partnership and the Valid-When-Made Doctrine: an Update on Madden v. Midland*, Catherine M. Brennan, Meghan Musselman and Joseph Vitale, Hudson Cook, Thirteenth Annual Consumer Financial Services Conference (April 2016), available at https://catherinembrennan.files.wordpress.com/2016/04/madden-panel.pdf.

B. The OCC does not show that state usury laws as applied to non-banks significantly interfere with bank powers for purposes of bank liquidity or any other legitimate banking purpose.

Under Dodd-Frank, the OCC can only preempt particular state laws on a case-by-case basis. In the usury context, since usury laws are clearly not preempted as a class, the OCC needs to consider the particular contexts in which those laws significantly interfere with banks.[54] The OCC fails to do this.

The OCC's proposal generally states that "banks of all sizes continue to routinely rely on loan assignments and securitization to access alternative funding sources, manage concentrations, improve financial performance ratios, and more efficiently meet customer needs."[55] The proposal then leaps to a single sentence conclusion—with no evidence at all—that this "risk management tool would be significantly weakened if the permissible interest on assigned loans were uncertain or if assignment of the permissible interest were limited only to third parties that would be subject to the same or higher usury caps."[56]

Yet despite the OCC's criticism of the *Madden* decision and the nearly five years since that decision, the proposal does not even allege the *Madden* decision has had any impact whatsoever on debt-buyers' relationships with national banks or on any other market.[57]

The proposal is extraordinarily broad. Without limitation as to the parties involved, the means by which the party came to possess the debt, the purposes and circumstances surrounding the party's acquisition of the debt, the outrageousness of the interest rate, or the impact on the bank, the proposal would exempt any holder of a bank-originated debt from otherwise applicable state law. An analysis of the potential impact on different markets, which the OCC failed to conduct, shows that state usury laws as to non-banks do not create significant interference with a bank power. This analysis also underscores that the OCC has failed to meet the procedural requirement of evidence on the record of a proceeding and that the proposal is overbroad.

1. Sales to Debt-buyers

The Second Circuit directly addressed the impact on national banks of applying state usury laws to debt buyers. The court specifically found that "state usury laws would not prevent consumer debt sales by national banks to third parties," and although "it is possible that usury laws might decrease the amount

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[54] "Under the "case-by-case basis" requirement, the OCC must individually evaluate state consumer laws." *Lusnak*, 883 F.3d at 1194.

[55] OCC Proposal, 84 Fed. Reg. at 64231.

[56] *Id.*

[57] Some critics of the *Madden* decision point to a study that showed a drop in marketplace lending for subprime borrowers by three lenders in the Second Circuit after the decision, especially for those borrowers with FICO scores below 644. Colleen Honigsberg et al., *The Effects of Usury Laws on Higher-Risk Borrowers*, Columbia Business School Research Paper No. 16-38 (Dec. 2 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2780215. However, the study showed that these lenders offered only miniscule amounts of credit in the low FICO range even before the *Madden* decision. Id. at 44 (Before Madden and After Madden charts). More relevant to this proposal, the study shows no significant impact on banks.

a national bank could charge for its consumer debt in certain states (i.e., those with firm usury limits like New York), such an effect would not 'significantly interfere' with the exercise of a national bank power."[58]

The OCC makes no attempt to dispute this conclusion. There is no evidence that the OCC's proposal is necessary to sustain banks' business with debt buyers. It is not even clear that the *Madden* ruling has meaningfully altered the price at which banks sell their defaulted debts, or even the price at which they can do so. Debt buyers already purchase at a steep discount, often not more than 10 cents on the dollar, based on a wide range of factors, most far more significant than the additional interest added to a principal that will never be collected in full. Indeed, the only impact of adding additional interest at high rates on top of already unaffordable debt is to bury struggling consumers under a load they may never escape. Thus, the OCC's decision to overturn the Second Circuit's decision as to debt buyers lacks any support.

2. Securitization of bank loans

The OCC references the ability of banks to securitize loans on the secondary market in order to access funding sources. Securitization of loans and revolving credit agreements can be a tool that banks use in the furtherance of their own legitimate bank lending programs that are not fronting for a third party. But securitization can also be an aspect of an operation that is designed to evade state usury law.

The questions that the OCC has left unanswered are whether the *Madden* decision is having any impact on legitimate, non-evasive bank securitization markets, and whether exercise of the power to securitize loans requires a complete exemption from state usury laws for every securitization vehicle and every assigned loan, in every conceivable circumstance.

The FDIC candidly stated in its proposed rule that it "is not aware of any widespread or significant negative effects on credit availability or securitization markets having occurred to this point as a result of the *Madden* decision."[59] The OCC offers no evidence to the contrary.

The analysis required by Section 25b—had the OCC followed its statutory requirements—would likely have revealed that the *Madden* ruling has had, and will likely have, limited if any impact, and that the proposed rule is not necessary for bank liquidity.[60] The largest securitization market by far is the mortgage market. State usury laws are already preempted for all first mortgages. And there is no evidence of any impact on the market for second mortgages by banks. (Yet, as discussed in section 5 below, the proposed rule could legitimize predatory rent-a-bank second mortgages currently being made by non-bank World Business Lenders through OCC-supervised Axos Bank at rates of 79% to 139% APR.)

The second largest securitization market is the auto loan market. Most auto loans are originated by dealers, not banks, and thus are subject to state usury laws. Auto loans originated by depositories

[58] 786 F.3d at 251.

[59] FDIC Proposal, "Federal Interest Rate Authority," 84 Fed. Reg. 66845, 66850 (Dec. 6, 2019).

[60] We are aware of no evidence that *Madden* has negatively impacted any bank's stock price, for example.

generally are not securitized. To the extent they are or are otherwise sold on the secondary market, there is no evidence that *Madden* has impacted the health of any aspect of the auto loan market.

Some private student loans are securitized, but those loans are typically at low rates that do not exceed state usury caps. There is no evidence of any impact on the student loan market.

There are questions about the impact of *Madden* on the credit card securitization market in light of the recent suits filed alleging that the *Madden* decision requires the interest on credit cards to follow state law if the receivables are sold to a non-bank securitization trust. However, the OCC does not even mention the credit card market in its proposal. Mere allegations early in a lawsuit with an uncertain impact are not sufficient to justify an overbroad rule that will have tremendous far reaching impacts and harms to consumers.[61] There is no evidence of any broader impact to date on the credit card markets.

Even if the *Madden* decision requires restructuring some securitization vehicles, that may not have a significant enough impact on banks to justify preemption of state usury laws.

The proposal fails to consider that a significant option for national banks seeking liquidity and diversification of risk for high-cost loans is to securitize and sell them to other depository institutions that likewise benefit from their own interest rate-exportation privilege. The OCC has adduced no evidence that this option is insufficient to avoid significant interference with national bank lending powers.

Nor has the OCC undertaken the statutorily mandated detailed analysis of the potential market and borrower impacts of a blanket exemption for usurious loans sold into the secondary market. With respect to consumer impacts, this omission is striking given the enactment of 25b in the immediate aftermath of the financial crisis. The foreclosure crisis that gave rise to the broader financial collapse demonstrated that when banks hold loans on their balance sheets, they are less likely to put borrowers into loans the borrowers ultimately will be unable to repay. Higher cost loans are more likely to produce this outcome because borrowers who struggle to repay loans at lower interest rates generally find it even more difficult to cover higher costs. Originators tend to better assess borrower ability to repay when they plan to hold onto the loans themselves, than when they plan to off-load the loans to investors.

Of course, it is possible that the OCC could make the showing required by section 25b to support a rejection of *Madden* in a narrow context to the extent necessary to facilitate bank liquidity in particular, legitimate markets for bank products. While there can be no justification for flooding the secondary

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[61] The court in these cases may find that the banks that issue the credit cards are the true lender and that they are covered by the NBA rate exportation provisions, or that the bank is the lender for purposes of state usury law. In a far cry from the high-cost rent-a-bank market or even the marketplace loan market, the banks in the credit card cases appear to market, offer, take applications for, underwrite, approve, issue and set the terms of the credit and have a continuing interest in the credit by owning and servicing the accounts (and, likely, having a significant interest in the interest paid). No one of these factors is determinative; in some high-cost rent-a-bank schemes, as well, the bank may claim to "own" the account and "charge" the interest through its agent. But the credit card securitization trusts, unlike rent-a-bank lenders, are not independent lenders and do not appear to have a significant role or economic interest in the lending programs other than in securitizing the receivables. The banks that offer the credit cards already have the right to charge the rate permitted by their home state and have no need to create vehicles to evade usury laws.

market with triple-digit interest rate loans, or loans of tens of thousands of dollars at high double-digit interest rates, should evidence of problems impacting bank products arise, it is possible that in a proper rulemaking, the OCC could marshal substantial evidence in support of a more appropriately tailored rule. That is exactly why Congress told the OCC how to conduct a preemption analysis. It did not do so.

3. Assignment to online lenders otherwise subject to state law

A third context that the proposed rule will apply to is lending programs in which a non-bank company that would otherwise be subject to state law has a significant role in the loan program but uses a bank to originate its loans. Typically the non-bank is involved both on the front end—designing the loan program, marketing the loans to consumers or small businesses, taking and processing applications—and on the back end, servicing and collecting the loans and owning or benefiting from the assigned loans or receivables. The bank nominally makes underwriting decisions, but often using criteria, software, or analysis primarily designed or provided by the non-bank company. In more recent incarnations, the bank may claim to retain ownership of the "loan" or "account" and only to sell receivables. The bank may retain a share of the receivables, but the non-bank company typically has the larger share of the economic interest in the program.

Sanitized as a "bank partnership model," these arrangements can be used by companies that charge rates that, while below 36%, are still high and may, for some loans, exceed what states allow, especially for larger loans. Or these models can be used by predatory lenders charging extraordinary rates.

Some of these models operate with brazen openness about the centrality of evasion of state usury laws. Publicly available documents, like a presentation by a prominent fintech law firm, eliminate doubt as to how the "bank partnership" model works: The bank originates the loan; the loan acquires the bank's right to ignore usury laws in all states but the bank's home state; and the non-bank handles the marketing, consumer interactions, servicing and/or other tasks associated with the loan.[62]

One slide from the presentation provides:[63]

How Do Bank Partnerships Work?

- Nonbank entity partners with a state FDIC-insured chartered bank or a federally chartered bank to help the bank originate the loan;
- Federal law gives the bank the ability to charge the interest rate permitted to it by its home state to people in every state ("rate exportation");
- Nonbank partner provides marketing and loan processing assistance up front, as well as purchasing, servicing, and collections activities on the back end.

Another states:[64]

How Do Bank Partnerships Work?

1) A non-bank partner enters into a contractual relationship with a Bank.

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[62] *Bank Partnership and the Valid-When-Made Doctrine: an Update on Madden v. Midland*, Catherine M. Brennan, Meghan Musselman and Joseph Vitale, Hudson Cook, Thirteenth Annual Consumer Financial Services Conference (April 2016), available at https://catherinembrennan.files.wordpress.com/2016/04/madden-panel.pdf.

[63] *Id.*

[64] *Id.*

2) Under the terms of the relationship, the Bank originates the loans, applying its own credit underwriting guidelines.
3) The non-bank partner, through its employees, may act as an agent for the bank in the states where the borrowers are located.
4) The non-bank partner may receive the borrower's loan application and forward it, usually by electronic means, to the Bank.
5) The Bank approves or rejects the application. If approved, the Bank funds the loan from its location.
6) After the Bank makes the loan, the non-bank partner who acted as the bank's agent for purposes of loan origination may purchase it. The purchase usually takes place within seconds of the loan being made and the entire transaction is usually handled electronically.
7) By agreement with the non-bank partner, the Bank often retains a small (perhaps 5%) participation interest in the loan or sells the whole loan.
8) By agreement, the non-bank lender often guarantees or indemnifies the bank for the risk it assumes in originating the loans.

Whatever the merits of the lending programs, these are programs predominantly run by non-bank companies that are and should be subject to state law. While the bank purportedly applies its own credit underwriting guidelines and approves lending decisions, in practice key decisions are led by the non-bank.[65] Facilitating evasion of state law is not a legitimate bank power protected by the Supremacy Clause. These bank-partnership programs are not designed primarily to help banks with their liquidity or their own businesses. To date, only one federal savings association that we are currently aware of, Axos Bank, has built a business off of this model. While other national banks and federal savings associations might want to monetize their rate exportation privileges, it does not significantly interfere with a legitimate power of those banks to apply state interest rates to the assignees of "bank partnership" loans. No other bank concerns compel protecting the non-bank lender's ability to assert the preemption rights of a bank whose role in the lending program is minor compared to that of the non-bank entity.

The OCC not only wholly fails to justify its proposal. It also fails to consider the vast implications of its proposal—the impact on state laws, the consequences for consumers and small businesses, national banks, and nonbanks that operate incompliance with state law. We address these in turn in the following sections.

IV. The proposal usurps the States' historical and constitutional role in our federalist system.

States have a long-standing, well-recognized interest in determining the policies best suited to prevailing conditions and priorities within state borders. As compared with the federal government, States are more familiar, accessible and accountable to their constituencies and can more nimbly develop policies

[65] As but one indication of the lender's control over the business, note Elevate's discussion of its control over their products' APRs: "We aim to manage our business to achieve a long-term operating margin of 20%, and do not expect our operating margin to increase beyond that level, as we intend to pass on any improvements over our targeted margins to our customers in the form of lower APRs. We believe this is a critical component of our responsible lending platform and over time will also help us continue to attract new customers and retain existing customers." Press Release: 10Q, Elevate Credit, Inc. (Aug.10, 2018).

to address the problems they face.[66] With good reason, the Constitution preserves the rights and role of States within our federalist republic.

The proposal fails to recognize States' historical and primary role in regulating and enforcing usury and the way that the proposal would undermine that role. The OCC's authority is over national banks and federal savings associations, not over non-bank lenders. In our federalist system, states have always been the primary regulator of non-bank lenders. Yet the proposed rule threatens to deprive states of their historic power by allowing non-bank lenders to use banks as a fig leaf to avoid state consumer protection laws.

Interest rate limits are the simplest and most effective protection against predatory lending.[67] Since the time of the American Revolution, states have set interest rate caps to protect their residents from predatory lending.[68] In more recent years, a handful of states eliminated their rate caps, others carved out limited exceptions for short-term payday loans (some since reversed), and a combination of federal and state laws exempt most banks from interest rate limits.[69] But the vast majority of states retain interest rate caps for non-bank installment loans and lines of credit.[70]

At least 43 states and the District of Columbia (DC) impose interest rate caps on some consumer loans. Among those that cap rates, the median annual rate including all fees is 36.5% for a $500, six-month loan, 31% for a $2000, two-year loan, and 25% for a $10,000, five-year loan.[71] While payday lenders are pushing hard at the state level to make high-cost long-term payday loans legal in more states, the large majority of state legislatures have rejected these efforts. In addition, sixteen states plus DC have interest rate caps that prevent short-term payday loans, a number that has grown by several over the last decade.

Notably, state laws often provide a comprehensive risk-based licensing and rate regime under which non-banks operate. For example, almost all states have a low usury limit at which even unlicensed, unsupervised lenders may lend, but permit a higher usury rate for licensed lenders. Essentially, in exchange for being allowed to charge a higher rate, the lender subjects itself to supervision and examination. As another example, as reflected in the prior paragraph, many states set lower rate limits on larger loans than they do on smaller loans, in light of the higher overall costs involved.

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[66] *See Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991) (stating that federalism "assures a decentralized government that will be more sensitive to the diverse needs of a heterogenous society" and "allows for more innovation and experimentation in government").

[67] See NCLC, Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default (July 2016), https://www.nclc.org/issues/misaligned-incentives.html.

[68] James M. Ackerman, Interest Rates and the Law: A History of Usury, 1981 Ariz. St. L.J. 61 (1981).

[69] See generally NCLC, Consumer Credit Regulation (2d ed. 2015), updated at www.nclc.org/library.

[70] *Id.*

[71] See Carolyn Carter et al., NCLC, Predatory Installment Lending in 2017: States Battle to Restrain High-Cost Loans (Aug. 2017), http://bit.ly/2vRZkEf; Carolyn Carter et al., NCLC, A Larger and Longer Debt Trap? Analysis Of States' APR Caps For A $10,000 5-year Installment Loan (Oct. 2018), overview http://bit.ly/2QOp6AG and full report, http://bit.ly/instloan18; *see also* NCLC, State Annual Percentage Rate (APR) Caps for $500, $2,000, and $10,000 Installment Loans (2019), https://www.nclc.org/images/pdf/high_cost_small_loans/fact-sheet-apr-caps-for-installment-loans.pdf.

States are typically successful in enforcing their interest rates against the products to which interest rate caps apply.[72] But the OCC's proposal risks undermining these regulatory landscapes and severely hamstringing states' ability to enforce rate caps.

High-cost lenders are notoriously relentless in their efforts to evade state usury laws (and any other law intended to rein them in) .[73] In the late 1990s and early 2000s, lenders attempted to evade the usury laws applying to balloon-payment payday loans through rent-a-bank schemes (see section V.E below). In 2000, the OCC and the Office of Thrift Supervision (OTS) issued guidance that by 2003 stopped national banks and federal thrifts from participating in these schemes (see section VI below).[74] Other federal regulators ultimately shut down these schemes for payday loans as well.[75]

With that option foreclosed, payday and other high-cost lenders turned to a similar sham whereby they claimed that a Native American tribe, which they argued was not subject to state law, was the true lender.[76] Notably, one such lender was Think Finance and its CEO Ken Rees, who were sued by the State of Pennsylvania in 2014 for violating the state's usury law by peddling 448% APR loans through a sham partnership with a Native American tribe. In 2019, Think Finance settled that lawsuit by agreeing to pay 80,000 Pennsylvanians $130 million.[77] CFPB also sued Think Finance for pursuing payments and collecting on loans that violated state usury laws and were thus void under state law.[78]

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[72] *See* Diane Standaert and Brandon Coleman, *Ending the Cycle of Evasion: Effective State and Federal Payday Lending Enforcement* (2015), Center for Responsible Lending, *available at* http://www.responsiblelending.org/payday-lending/research-analysis/crl_payday_enforcement_brief_nov2015.pdf.

[73] For example, they evaded the 2006 federal Military Lending Act until its more comprehensive regulations in 2015, and they schemed to evade the CFPB's payday lending rule as it was being developed. For a fuller discussion of the myriad ways payday lenders have engaged in evasion, see Comments of CRL, NCLC, and other consumer and civil rights groups to CFPB on its Proposed Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans, Oct. 7, 2016, at pp. 35-40, https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_comment_oct2016.pdf.

[74] *See* OCC Advisory Letter No. AL 2000-10 (Nov. 27, 2000), https://occ.gov/news-issuances/advisory-letters/2000/advisory-letter-2000-10.pdf. *See also* Office of Thrift Supervision, Letter P-2000-4 (Feb. 3, 2000) (OTS will conduct examinations of the thrift's partner in payday lending to the same extent as it will of the thrift).

[75] *See, e.g.*, Robert Schoenberger, Republic to Get Out of Payday Loans; FDIC Urged Bank to Exit Business, The Courier-Journal, Mar. 3, 2006; Republic Bancorp Inc., SEC Form 8-K (Feb. 24, 2006), *available at* www.sec.gov; *In the Matter of* First Bank of Delaware, and CompuCredit Corporation, Notice of Charges for an Order to Cease and Desist and For Restitution, Federal Deposit Insurance Corporation, FDIC-07-256b, FDIC-07-257k, *available at* www.fdic.gov.

[76] *See Consumer Financial Protection Bureau v. CashCall, Inc*., 2016 WL 4820635 (C.D. Cal. Aug. 31, 2016).

[77] *Pa. Attorney General Announces Payday Loan Relief Settlement*, KDKA 2CBS Pittsburgh, July 24, 2019, https://pittsburgh.cbslocal.com/2019/07/24/think-finance-payday-loan-settlement/.

[78] CFPB, *CFPB Sues Think Finance For Collecting On Debts That Consumers Did Not Legally Owe*, Nov. 15, 2017, https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-think-finance-collecting-debts-consumers-did-not-legally-owe/.

Back in 2014, Think Finance spun off its loan portfolio to a new company, Elevate[79]—which, undeterred by the exposure of one ruse, quickly and brazenly entered into a rent-a-bank scheme with Republic Bank for its Elastic product, and later entered into a scheme for its Rise product as well, with FinWise Bank. The OCC's proposal plays right into the hands of high-cost lenders and their unceasing efforts to evade interest rate and other consumer protection laws.

Maxine's story, which she shares in the documentary film *Let My People Go*, illustrates the relevance of state usury law in the lives of individuals and families:

> *I was like, "Collateral? Isn't my paychecks enough?" They said, "Sometimes, if you lose your job, we'll lose our money. So, we need something more." So, that's whenever my husband said, "Well, we have our vehicle." He was working, so my check paid for the loan and then we kind of lived off of his. So, I was a day late, 243.60, and I paid it anyways. I thought everything was okay, came up to Rapid to the celebration for Black Hills Powwow. My son . . . and his cousin were outside, and they said, "Mom, there's some men by the Suburban." And I said, "For what?" "I don't know. They want to see you and dad." . . . . So, we went out there and, here it was, a tow truck, and they came and they said, "Your car is being repossessed." I said, "For what? I paid down." And the man said, "Apparently [] you didn't pay them." And I said, "But all of our things are here. My whole family, I brought my whole family," and he said, "That's not our problem. You people should pay your bills."*
>
> *Maxine's family witnessed around 30 vehicle repossessions at the powwow*.[80]

Maxine lives in South Dakota, which in 2016 voted to cap rates at 36%, and car title lenders left the state. The OCC's proposal would embolden their return. The OCC fails to consider the proposal's impact on millions of consumers like Maxine, residing not only in South Dakota, but in all states with interest rate caps aimed at high-cost lending, and in all states who might like to enact those caps in the future.

V. The proposal fails to consider the risk it poses to cause consumers and small businesses.

The OCC's proposal fails to consider the devastating impact it could have on consumers and small businesses, even as the risk is clear. Indeed, predatory lenders have long hoped for the banking regulators to issue this very proposal. After the proposal was released, one investment advisor wrote in its investment notes:

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[79] *Think Finance Announces Business Restructuring and Spinoff of New Company, Elevate*, BusinessWire, May 1, 2014, https://www.businesswire.com/news/home/20140501006196/en/Finance-Announces-Business-Restructuring-Spinoff-New-Company.

[80] *Source: Let My People Go,* a 30-minute documentary from the Center for Responsible Lending and South Dakotans for Responsible Lending, illuminating the harms that payday and vehicle title borrowers experienced in South Dakota and the 2016 ballot initiative that led to these lenders' exit from the state. A full transcript of the documentary was submitted to the docket to the CFPB's proposed repeal of the ability-to-repay provisions of its Payday, Vehicle Title, and Certain High-Cost Installment Loans rule, ID CFPB-2019-0006-51897, https://www.regulations.gov/document?D=CFPB-2019-0006-51897; the documentary may be viewed here: https://www.captheratesd.com/let-my-people-go/.

> "Enova received a strong endorsement from banking regulators in support of its bank partnership model, which is a key aspect of its California growth strategy moving forward (Elevate Credit [ELVT, MP] is also a beneficiary of these developments)."[81]

Similarly, when the FDIC issued its Request for Information on small dollar lending in late 2018, an attorney who represents payday lenders wrote:

> "[P]erhaps *most significantly*, this RFI could serve as a vehicle for the FDIC to confirm that, in a properly structured loan program between a bank and a non-bank marketing and servicing agent, the Federal Deposit Insurance Act authorizes state-chartered banks to charge the interest allowed by the law of the state where they are located, without regard to the law of any other state, despite "true lender" and *Madden* arguments to the contrary."[82]

High-cost products currently using rent-a-bank schemes are longer-term installment payday loans, lines of credit, vehicle title installment loans, subprime business loans, and mortgages masquerading as business loans. The proposal would also clearly embolden a return of short-term balloon-payment payday loans and balloon-payment vehicle title loans.

A. The proposal fails to consider that bad actors are already engaged in predatory rent-a-bank schemes, which the OCC and FDIC are not restraining.

The proposal fails to consider that rent-a-bank schemes are already underway, including a small business loan scheme involving an OCC-supervised savings association, **Axos Bank**. In these comments, we focus on the most egregious examples of lenders making loans far in excess of 36%. But even 36% is a very high rate, and most states limit large loans well below that level. For example, the median rate cap in the states on a $10,000, 5-year loan is 25% APR, and New York limits loans over $25,000 to 16% APR. The limits on mortgage rates are often lower than that. Efforts to evade state usury caps are inappropriate even if the rates do not reach the triple digits.

With respect to consumer loans, two FDIC-regulated banks, **Republic Bank & Trust** (chartered in Kentucky) and **FinWise Bank** (chartered in Utah) are helping three high-cost lenders, **OppLoans, Elevate, and Enova**, make installment loans or lines of credit in excess of 100% APR in a total of at least 30 states and the District of Columbia (DC) that do not allow such high rates.[83]

OppLoans offers $500 to $4,000 installment loans through FinWise Bank at 160% APR in 24 states and the District of Columbia (DC) that do not allow that rate.[84] FinWise sells the receivables back to

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[81] On file with National Consumer Law Center.

[82] Jeremy T. Rosenblum, *FDIC seeks comment on small-dollar lending*, Ballard Spahr's Consumer Finance Monitor, Nov. 15, 2018, https://www.consumerfinancemonitor.com/2018/11/15/fdic-seeks-comments-on-small-dollar-lending/ (emphasis added).

[83] For details on rent-a-bank lending, see NCLC, Fact Sheet: Stop Payday Lenders' Rent-a Bank Schemes! (Dec. 2019), http://bit.ly/StopRent-a-BankSchemes ("Rent-a-Bank Fact Sheet"), also attached as Appendix A, and NCLC, Issue Brief: FDIC/OCC Proposal Would Encourage Rent-a-Bank Predatory Lending (Dec. 2019) ("Rent-a-Bank Issue Brief"), http://bit.ly/FDICrent-a-bankproposal (providing links to lenders' websites).

[84] *See* https://www.opploans.com/rates-and-terms/.

OppLoans or a related entity. OppLoans makes loans directly through a state license in states that allow high rates.

Elevate Credit uses FinWise Bank to originate Rise installment loans at 99% to 149% APR in 16 states and DC that do not allow those rates and in other states through a state license.[85] FinWise sells a 95% interest in the loans to an entity controlled by Elevate for which Elevate is the primary beneficiary.[86]

Elevate also offers a line of credit called Elastic that carries an effective APR of up to 109% in 14 states and DC that do not allow that rate on a line of credit.[87] Elevate uses Republic Bank & Trust of Kentucky to originate the Elastic product. Republic sells a 90% interest in the loans to an entity controlled by Elevate for which Elevate is the primary beneficiary.[88]

Enova's NetCredit brand recently began using Republic to fund $1,000 to $10,000 installment loans with APRs up to 99.9% in 22 states and DC that do not allow that rate.[89] Enova or a related entity likely purchases the loans or receivables shortly after origination.

FDIC-supervised Capital Community Bank (of Utah) is helping car title lender **LoanMart** evade state law in a number of states. LoanMart's loans range from 60-222% interest; a typical loan is $2,500, 18-month loan at 90%, totaling $2,136 in interest.[90]

In the small business area, two other banks—FDIC-regulated **Bank of Lake Mills** in Wisconsin and **OCC-regulated Axos Bank**—have helped **World Business Lenders** (WBL) originate loans. For example, WBL used Bank of Lake Mills to originate a 120% APR $550,000 loan[91] and a 74% APR mortgage,[92] and WBL uses Axos Bank to originate a mortgage that exceeded 138% APR.[93] The loans appear to be resold to a WBL-related entity.

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[85] *See* https://www.risecredit.com/how-online-loans-work#WhatItCosts (select each state); Rent-a-Bank Issue Brief, *supra.*

[86] *See* Elevate Credit, Inc., Form 10-Q for the period ending Sept. 30, 2019, S.E.C. file no. 001-37680 at 22, 43, https://www.sec.gov/Archives/edgar/data/1651094/000165109419000048/elevate10-qxq22019.htm ("Elevate 10-Q").

[87] Elevate 10-Q at 46; Rent-a-Bank Issue Brief, *supra.*

[88] Elevate 10-Q at 21.

[89] *See* https://www.netcredit.com/ (bottom of page); https://www.netcredit.com/rates-and-terms.

[90] *See* https://www.800loanmart.com/ (accessed Jan. 20, 2020).

[91] *See Rent-Rite Super Kegs West, Ltd., v. World Business Lenders*, LLC, 603 B.R. 41 (Bk. Ct. D. Colo. 2019).

[92] *See* Complaint, Deramo et al. v. World Business Lenders, LLC, et. al, No. 8:17-cv-01435-RAL-MAP (Cir. Ct. of 12th Jud'l Cir., Sarasota Co., FL June 16, 2017).

[93] *See Adoni, Harbor Park Realty, LLC v. World Business Lenders, LLC, Axos Bank f/k/a B-of-I Federal Bank*, filed Oct. 17, 2019 in Supreme Court of the State of N.Y., County of Suffolk, removed to E.D.N.Y on Dec. 12, 2019 as No. 2:2019cv06971-JMA-GRB.

In summary, loans currently being made through rent-a-bank schemes include:

- 160% APR, $400 to $5,000 loans (OppLoans's product)
- 99% to 149% APR, $500 to $5,000 loans (Elevate's Rise product)
- Up to 109% effective APR, $500 to $4,500 lines of credit (Elevate's Elastic product)
- Up to 155% APR, $2,500 to $10,000 loans (Enova's NetCredit product)[94]
- Up to 222% APR, $2,500 loans (LoanMart's car title loan)
- 75% to 139% APR and higher small business loans, including disguised personal mortgages at rates up to 139% that are resulting in foreclosure.

A review of the CFPB Consumer Complaints data on those predatory lenders currently using rent-a-bank scams find several recurring themes:

- consumers puzzled and distraught that their large bi-weekly or monthly payments are not reducing principal due to the loan's high interest rates;
- frequent inability to sustain the high payments;
- queries about how such loans can possibly be legal;
- distress caused by wage garnishment; and
- stress caused by relentless collection calls to a borrower's home or workplace.[95]

Having reviewed complaints about payday and other payday installment loans, these comment authors can attest that complaints about these loans are of the very same nature, replete with financial and emotional anguish at the hands of unaffordable high-cost loans. Dozens of examples of complaints about loans made by these lenders are provided in section G below, which discusses the harms of high-cost lending.

B. The OCC is supporting and has failed to address predatory rent-a-bank lending by an OCC-supervised bank in the small business area.

The rent-a-bank lending currently going on in the consumer area, as far as we know, is entirely with FDIC-supervised banks. While one payday lender has apparently been in talks with OCC-supervised MetaBank for a possible rent-a-bank arrangement to evade California's new law (see section C below), so far we have not seen it. Theoretically, OCC enforcement of its 2000 guidance addressing relationships with payday lenders,[96] as well as its 2013 third-party service provider guidance,[97] could be used to prevent the spread of rent-a-bank schemes to OCC-supervised banks. But the agency's will to use these guidances to prevent rent-a-bank schemes in recent years is uncertain at best. The evidence from the

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[94] *See* https://www.netcredit.com/rates-and-terms/california.

[95] Complaints related to Elevate, OppLoans, Enova (NetCredit), Curo (SpeedyCash), and LoanMart, 2015 to present; downloaded from CFPB's complaint database and on file with CRL.

[96] OCC Advisory Letter No. AL 2000-10 (Nov. 27, 2000), https://occ.gov/news-issuances/advisory-letters/2000/advisory-letter-2000-10.pdf.

[97] OCC Bulletin 2013-29 (Oct. 30, 2013), Third-Party Relationships: Risk Management Guidance (flagging compliance risk "when a third party implements or manages a product or service in a manner that is unfair, deceptive, or abusive to the recipient of the product or service"), https://www.occ.gov/news-issuances/bulletins/2013/bulletin-2013-29.html.

small business area shows that the OCC is actively supporting predatory rent-a-bank schemes. The OCC has also failed to police or stop predatory rent-a-bank lending happening at Axos Bank, an OCC-supervised bank, despite a truly shocking fact pattern.

In July 2019, the OCC filed an amicus brief supporting World Business Lenders (WBL) in a district court bankruptcy case, *Rent-Rite Super Kegs v. World Business Lenders.*[98] The OCC is defending WBL's ability to charge 120% APR on a $550,000 loan despite Colorado's lower (but still hefty) 45% business interest rate cap because the loan was originated through a bank (FDIC-supervised Bank of Lake Mills).

Not one word of the OCC's brief expresses any concern about the ridiculously predatory interest rate. The OCC chose to side with a predatory lender in a case that is not at the appellate level, when the bank is not involved in the case, and where there is no argument that the bank would be impacted if WBL were limited to collecting 45% APR instead of 120% APR.

In the *Rent-Rite* case, the OCC made the same arguments in support of the non-bank WBL's right to charge 120% APR as it raises to justify this rulemaking. The OCC did not raise the possibility that the bank might not be the true lender or qualify its support for WBL or the application of the valid-when-made doctrine to WBL in any way..

The OCC's decision to support WBL in the *Rent-Rite* case is shocking enough, and dispels any hopes that the OCC has concerns about the valid-when-made theory being misused. But what is even more telling is that WBL's current rent-a-bank partner is OCC-supervised Axos Bank, formerly known as Bank Of Internet (BOFI), a federal savings association.[99]

Several cases filed in court against WBL reveal that the *Rent-Rite* case is not an aberration. This is a company with a predatory business model of approaching struggling businesses and charging exorbitant rates, using a bank as a front to escape interest rate limits. The loans are secured by personal residences, making the high rates truly shocking, and in some cases the business aspect of the transaction appears to be trumped up to disguise that these are loans for personal purposes and are covered by consumer laws. The bank has little if anything to do with the loans, and **in more than one case, WBL appears to have use of a power of attorney for the bank.**

The facts described below are taken from the complaints as alleged. There is a striking similarity to them.

In *Kaur et al. v. World Business Lenders et al*., filed in Massachusetts in April 2019, a married couple was threatened with foreclosure after borrowing $175,000 at 92% APR from World Business Lenders for their business, New England Distributors, secured by a mortgage on their house.[100] The loan paperwork listed BOFI/Axos Bank as the lender, but the loan was presented by WBL, all the forms were WBL forms,

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[98] *See Amicus Brief of the [FDIC] and the [OCC] in Support of Affirmance and Appellee, In Re: Rent-Rite Super Kegs West Ltd.*, https://www.consumerfinancemonitor.com/wp-content/uploads/sites/14/2019/09/Amicus_Brief.pdf (Sept. 10, 2019); *see also* Letter to the OCC and FDIC from NCLC, CRL, and additional groups opposing the agencies' support of a predatory small business lender using a rent-a-bank scheme (Oct. 24, 2019), https://www.nclc.org/issues/ltr-opp-rent-a-bank.html.

[99] *See* https://www.wbl.com/.

[100] Complaint, *Kaur et al v. World Business Lenders et al.* (removed to D. Mass. June. 19, 2019 as 1:19-cv-11364).

and the application discussed WBL's role including ordering a valuation of the collateral. The mortgage was assigned from BOFI to WBL and that assignment by BOFI "was signed by World Business Lenders, LLC, as attorney-in-fact for BOFI Federal Bank."[101]

In *Adoni et al. v. World Business Lenders, LLC, Axos Bank and Circadian Funding,* filed in New York in October 2019, Jacob Adoni has been threatened with threats to foreclose on his home after receiving a $90,000 loan at 138% APR secured by his personal residence.[102] Adoni was contacted by Circadian Funding with an offer of a personal loan that would be funded by WBL and Axos Bank. He was told that the loan documents would be provided to him at 12:00 pm and he must execute them by 6:00 pm or the offer would no longer be valid. Adoni was told by Circadian that the loan was meant to be a personal loan to him but it was necessary for the loan documents to make reference to his business. The defendants "have inundated Mr. Adoni with multiple threats to foreclose on his home and on the mortgage."[103]

In *Speer v. Danjon Capital et al.,* filed in Connecticut in late 2019, Elissa Speer is facing a civil action in Nevada and a foreclosure of a residential property in Connecticut after taking out a $30,000 loan alleged to be at 400% and a second loan of $20,000, alleged to be at 121% APR.[104] The loans were offered by Danjon Capital in collusion with World Business Lenders, but were purportedly on funds lent by Bank of Lake Mills. After executing the first note and mortgage, Danjon refused the release the funds unless Speer executive a lease agreement for "restaurant equipment" despite the fact that Speer was never in the restaurant business and the equipment referenced, including two backpack leaf blowers, have no practical restaurant use. The complaint alleges that the defendants disguised residential mortgage loans made to consumers primarily for personal, family, or household uses, as commercial loans in order to avoid Connecticut's licensure and other laws.

In *B&S Medical Supply et al v. World Business Lenders et al*., filed in New York in 2017, WBL solicited Boris Simon, the owner of B&S Medical Supply, for a $28,000 business loan at 73% APR, provided by Liberty Bank, that was secured by Simon's home. The business loan application contained both the business logo and contact information of WBL and Liberty. The loan was immediately assigned from Liberty to WBL. WLB corresponded with Simon, referring to itself as the "Lender" and saying that it would service the loan and have the right collect payments.

In another case, *Michael Gangi Plumbing et al v. BOFI Federal Bank and World Business Lenders*, filed in New York in April 2019, the complaint is not available but the plaintiff alleged usury, fraud and misrepresentation by the defendants in connection with commercial and residential loans.[105]

The OCC's supervision of Axos Bank is clearly not stopping the bank from letting itself be used—up to the point of handing over a power of attorney—by a predatory lender in order to evade state interest

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[101] *Id.* at 21.

[102] Complaint, Adoni et al. v. World Business Lenders, LLC et al (removed to E.D.N.Y. Dec. 12, 2019 as No. 2:19-cv-06971).

[103] *Id.* at 5.

[104] Complaint, Speer v. Danjon Capital et al., No. 3:19-cv-01778 (D. Conn. filed Nov. 12, 2019).

[105] *See* Notice of Removal, *Michael Gangi Plumbing et al v. BOFI Federal Bank n/ka/a Axos Bank and World Business Lenders*, No. 19-cv-3409 (E.D.N.Y filed June 7, 2019).

rate limits. The bank itself has been named in these lawsuits, so the bank's supervisors should surely know about them. These practices have been going on for some time. A 2014 article describes how WBL employs some of the worst actors and practices from the foreclosure crisis for its predatory lending practices towards small businesses.[106]

The OCC's direct support for World Business Lenders on the same grounds used to justify the proposed rule shows exactly what should be expected to happen if the rule is finalized: predatory lending, which not only may leave people in financial ruin but jeopardizes their homes and businesses.

C. The proposal fails to consider payday lenders' explicit plans in California to broadly expand rent-a-bank schemes, as well as other potential schemes that the proposal would embolden.

The proposal also fails to consider the entirely foreseeable growth of rent-a-bank schemes expected to occur, including possibly with OCC-supervised **MetaBank.**

On October 10, 2019, California Governor Gavin Newsom signed into law AB 539, effective January 1, 2020, which targets long-term payday loans, limiting the interest rates on loans of $2,500 to $10,000 to 36% plus the federal funds rate. Before now, there has been no rate cap in California on loans over $2,500.

Three large high-cost lenders, which were charging from 135% to 199% APR on high-cost installment loans—rates illegal under the new law—indicated their plans to start or expand rent-a-bank arrangements into California, with the clear intent to evade the new interest rate cap. These lenders discussed with investors their plans even before it was enacted. These brazen declarations of their intentions make patently clear that the involved lenders would be forming these partnerships for the purpose of evading the law, and that the involved banks would be renting out their charters to these lenders. These lenders have been met with resistance,[107] and to our knowledge have not yet begun new schemes in California. But at least two of these lenders appear to be already making high-cost rent-a-bank loans elsewhere, and the OCC's proposal would embolden these schemes—a fact the proposal fails to consider.

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[106] Zeke Faux, Wall Street Finds New Subprime With 125% Business Loans, Bloomberg (May 22, 2014), https://www.bloomberg.com/news/articles/2014-05-22/wall-street-finds-new-subprime-with-125-business-loans.

[107] *See* Press Release, *Advocates Urge FDIC, OCC, Federal Reserve to Stop Banks from Helping Payday Lenders Evade State Interest Rate Limits* (Nov. 7, 2019) (discussing letters to the agencies from a coalition of 61 consumer, civil rights, and community groups, flagging the lenders' statements of intent to evade California law and urging the regulators to prevent rent-a-bank schemes in California and elsewhere), https://www.responsiblelending.org/media/advocates-urge-fdic-occ-federal-reserve-stop-banks-helping-payday-lenders-evade-state-interest. Those letters attached another letter from Californians for Economic Justice to the California Department t of Business Oversight, the Attorney General, and the Governor, flagging the same concerns. *See also* Letter from Rep. Katie Porter of California to FDIC, Dec. 20, 2019 and Tweet: "High-cost lenders announced during their earnings calls that they planned to target CA borrowers with abusive loan terms banned in our state. Today, I'm forwarding transcripts of those calls to federal watchdogs. I won't stand by while bad actors try to skirt our laws." https://twitter.com/RepKatiePorter/status/1208039708095238145?s=20.

CURO Group Holdings Corp. currently offers both short-term and long-term payday loans through its **SpeedyCash** brand. Its website gives an example of a $2,600 installment loan at 134% APR and a $5,000 loan at 131% APR.[108]

The following is an example of a SpeedyCash loan made in California before the new rate cap: $2,600 loan at 135% APR, repayable over 3.5 years with payments of $138 every two weeks, or approximately $276 monthly, totaling **$12,560** in total payments.[109]

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate	FINANCE CHARGE The dollar amount the credit will cost you	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled
135.211%	$9,960.35	$2,600.00	$12,560.35

Your Payment Schedule will be:

Number of Payments	Amount of Payment	When Payment is Due
90	$138.09	Every 14 days , beginning 28 Feb 2014

CURO discussed plans to evade the California law, noting discussions with the national bank **MetaBank**, while praising the economics of the bank partnerships:

> "In terms of regulation at the state level in California, we expect a new law . . . [to make] our current installment products no longer viable . . . . "**[W]e continue to talk to Meta[Bank] and we continue to talk to other banks about partnership opportunities**" . . . . "I think we feel very good about being able to find products and partnerships that will serve our, the customer base in California that wants this longer, longer term, larger installment loan or possibly as a line of credit product . . . . And I think from a margin standpoint [] the bank partnerships are great. You have to sacrifice a little bit of the economics there because you have a, you have a bank partner there that's going to need a good rev share . . . . And I think . . . with bank partnership opportunities [] we feel . . . we've got a good, a really good opportunity to do that."[110]

We note that in April 2018, CURO announced plans to offer a line of credit product "through a relationship with MetaBank" which would not contribute to its financial results until 2020, [111] and that in its November 2019 10Q, it announced that it had discontinued that agreement in September 2019.[112]

Notably, MetaBank has a history of working with payday lenders and helping third parties offer predatory products and evade the law. MetaBank issues prepaid cards sold by ACE Cash Express and

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[108] https://db4nnybic3xty.cloudfront.net/pdf/SRC/2018/california/store/california.pdf (See "Installment Bank Line Loan Price Disclosure" at the bottom).

[109] Loan document on file with CRL.

[110] CURO Group Holdings Corp., Earnings Call, pp. 3, 7-8 (July 30, 2019) at SeekingAlpha.com.

[111] CURO 2018 10K at 46.

[112] CURO 10Q, Nov. 2019, at 44, https://fintel.io/doc/sec-curo-10q-curo-group-holdings-2019-november-04-18209.

other payday lenders, and those payday lender prepaid cards were the only major prepaid cards with overdraft fees until new rules from the Consumer Financial Protection Bureau went into effect.[113] And MetaBank now issues the "ACE Flare Account by MetaBank"—effectively a prepaid card sold by ACE and other payday lenders—which purports to be a bank account in order to evade the new prepaid rules and continue charging overdraft fees.[114] MetaBank was also sanctioned in 2010, when under the supervision of the OTS, in connection with another prepaid card offered by a third party, iAdvance. The OTS shut down the line of credit offered on that prepaid card, finding that bank had engaged in unfair and deceptive practices in connection with it.[115]

Two other high-cost lenders also noted plans to evade the California law through rent-a-bank schemes. Though not naming OCC-supervised banks, they could pursue such schemes with national banks as they look to evade the new law.

Elevate Credit, Inc. was offering high-cost installment loans in California through its **Rise** brand at rates of 60% to 225% APR for a $2,600 to $5,000 loan.[116] In other states, where that product would not be permitted by non-banks, Elevate currently uses FDIC-supervised **FinWise Bank** to originate its Rise loans at rates of 99-149% APR.

Elevate also uses FDIC-supervised **Republic Bank** to originate **Elastic**, an open-end line of credit with an effective APR of approximately 109%[117] in about 33 states, including in states that do not permit that rate by non-banks.[118]

In its July earnings call, Elevate discussed its plans to expand its Rise arrangement through a bank partner to evade the new California rate cap:

> "[Q:] So what does [the new California law] mean for Elevate? . . . [A:] [W]e expect to be able to continue to serve California consumers via bank sponsors that are not subject to the same proposed state level rate limitations. . . . [W]e are confident that we can make that transition . . . . And the effective yield that we are looking at on the product would be very similar to what we have on the market today. So we think the impact would be minimal and this transition would be pretty seamless."[119]

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[113] *See* NCLC, Payday Lender Prepaid Cards: Overdraft and Junk Fees Hit Cash-Strapped Families Coming and Going (2015), https://www.nclc.org/issues/payday-lender-prepaid-cards.html.

[114] *See* Press Release, National Consumer Law Center, "No Fooling! New Prepaid, Payroll, and Government Benefit Card Protections Take Effect April 1" (March 28, 2019), https://www.nclc.org/uncategorized/no-fooling-new-prepaid-payroll-and-government-benefit-card-protections-take-effect-april-1.html.

[115] Form 8-K filed by Meta Financial Group, Inc. with the Securities and Exchange Commission, October 6, 2010, *available at* http://www.sec.gov/Archives/edgar/data/907471/000110465910052100/a10-19319_18k.htm.

[116] https://www.risecredit.com/how-online-loans-work#WhatItCosts (select California).

[117] Elevate Sept. 2019 10-Q at 46.

[118] *See* NCLC, Rent-a-Bank Fact Sheet, *supra.*

[119] Elevate Credit Inc., Earnings Call, pp. 5-6 (July 29, 2019) at SeekingAlpha.com.

> "**Realistically, we will probably use a new bank to originate as we transition into California for Rise.** It will be [] probably different than FinWise. So that will add to the diversification."[120]

Enova International, Inc., was offering two long-term high-cost loan products over $2,500 in California that are now outlawed by the new law, NetCredit (up to 155% APR) and CashNetUSA (up to 191% APR). Last summer, Enova discussed plans to evade the California law, while touting how relatively little lenders must give up in margin to purchase the bank's preemption rights:

> "[W]e will likely convert our near-prime product [NetCredit] to a bank-partner program, which will allow us to continue to operate in California at similar rates to what we charge today"[121] . . . ."There's no reason why we wouldn't be able to replace our California business with a bank program."[122]

When asked the following on the call: "Do you have a bank partner in place already? Just remind me, that will allow you to make higher rate loans that is, kind of, pass the product through their regulator?," the Enova spokesperson responded:

> "We do have a bank program. We do have a bank partner that does higher interest rate loans, and kind of, we'll have to do a couple of quick changes to our program with them to offer that in California, but we don't see any reason why we couldn't do that . . . . In terms of the conversion to a bank program, we give up a couple about percentages — a couple percent of margin to the bank partner, but other than that it's largely like-for-like."[123]

So far, Enova has not yet rolled out rent-a-bank products in California. But as discussed above, NetCredit uses a rent-a-bank operation in other states. The proposed rule would only give Enova more confidence to move into California and other states.

LoanMart has just recently added California to the list of states where it uses a bank to originate loans. In December 2019, prior to the effective date of California's new law, California was not included among those states on LoanMart's website; today, it is.[124]

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[120] *Id.* at 6.

[121] Enova International Inc., Earnings Call, p. 3 (July 25, 2019) at SeekingAlpha.com.

[122] *Id.* at 9.

[123] *Id.* at 9, 10.

[124] "Loans **for certain California residents**, and residents of Delaware, District of Columbia, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Oklahoma, Ohio, Oregon, South Dakota, Tennessee, Texas, and Washington residents are made by Capital Community Bank, a Utah chartered bank located in Provo, UT, Member FDIC. Loans made by Capital Community Bank will be governed by Utah law and serviced by LoanMart." https://www.800loanmart.com/ (accessed Jan. 20, 2020) (emphasis added). The authors accessed LoanMart's website on December 19, 2019, and California was not listed at that time; the other states were already listed.

In addition, **OppLoans**, which makes 160% APR long-term payday loans, was previously originating some loans in California through FDIC-supervised FinWise Bank and other loans directly through a California state license, and now appears to be lending entirely through FinWise Bank., [125]

These publicly disclosed rent-a-bank operations and expansions are most likely in addition to others that have not yet been revealed. Other state-regulated payday lenders that are not publicly traded may well be in talks to begin rent-a-bank schemes to evade the will of California's legislature.

The immediately pending threat of brazen expansion of rent-a-bank schemes in California—and the risk to other states that already had strong rate caps—should have been considered by the OCC. Notably, FDIC Chairman McWilliams testified at a December 2019 Congressional hearing, following the issuance of both agencies' proposals, that she was unaware of these developments,[126] despite letters having been sent to her intended to alert her to these developments.[127]

D. The proposal fails to consider the impact of auto title lending through rent-a-bank schemes.

As noted above, one of the markets where rent-a-bank lending has started to happen is the auto title loan market. Yet the proposed rule fails to consider the impact of legitimizing a rent-a-bank model for this market plagued not only by unaffordable high-cost loans but also by the risk of losing the vehicle.

LoanMart, which lends under a state license in states that permit its high rates, is using FDIC-supervised **Capital Community Bank (of Utah)** to evade state law in a number of states. LoanMart's website now says at the bottom:

> Loans for certain California residents, and residents of Delaware, District of Columbia, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Oklahoma, Ohio, Oregon, South Dakota, Tennessee, Texas, and Washington residents are made by Capital Community Bank, a Utah chartered bank located in Provo, UT, Member FDIC. Loans made by Capital Community Bank will be governed by Utah law and serviced by LoanMart.[128]

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[125] *See* https://www.opploans.com/rates-and-terms/#california.

[126] House Financial Services Committee hearing on Oversight of Prudential Regulators, Dec. 5, 2019:

Rep. Porter: "[A[re you aware of statements made on earnings calls by lenders in California in the wake of California's new lending law, several payday lenders announced on their earnings calls that they plan to use rent-a-bank schemes to evade California's new law that outlaws 100 to 200 percent installment loans."

Chairman McWilliams: "I'm not and I frankly don't listen to payday lender' investor calls. I just don't have the time."

[127] At the time of the hearing, and prior to the FDIC's proposed rule on "federal interest rate authority," two letters, both publicized through press releases, had been sent to Chairman McWilliams, with copies to her staff, notifying the agency of lenders' stated intentions to evade the new California law through rent-a-bank schemes: an Oct. 24 letter opposing the agencies' support of WBL in the Rent-Rite case (https://www.nclc.org/issues/ltr-opp-rent-a-bank.html), and a Nov.7 letter addressing the California statements in detail (https://www.responsiblelending.org/media/advocates-urge-fdic-occ-federal-reserve-stop-banks-helping-payday-lenders-evade-state-interest).

[128] https://www.800loanmart.com/ (last accessed Jan. 20, 2020).

LoanMart's website directs borrowers from these states to a page for "ChoiceCa$h serviced by LoanMart," where the fine print indicates the loans are made Capital Community Bank.[129] That webpage indicates that loans are installment loans up to three years, and "The Annual Percentage Rate (APR) is 170% with a repayment period of 36 months. A loan example: a 3-year $3,000 loan with an APR of 170% has 36 scheduled monthly payments of $428.64," for a total cost of $15,431.04.[130]

The language indicating that for "certain California residents" loans are made through a bank appeared for the first time in January 2020. That is when California's interest rate caps on loans up to $10,000 went into effect (see section D below for further discussion). It is not clear which California residents receive loans originated by LoanMart; those may be loans of $300 or less, for which rates are not capped.

Most of the other states where LoanMart uses a bank to originate the loans are also ones that impose interest rate caps far lower than 170% APR on auto title loans or have other restrictions on auto title loans.[131] For example, in Florida, interest rates on auto title loans are capped at 30% per year on the first $2,000, 24% per year on the principal amount exceeding $2,000, and 18% per year on the remainder.[132] In Kentucky, interest rates on auto title loans are capped at 36% per year on amounts less than $3,000 and 24% per year on loan amounts greater than $3,000.[133] Some other jurisdictions, such as the District of Columbia and Washington State, do not have specific statutes governing auto title lending but generally cap interest rates at 36% or less.[134]

The dangers of allowing auto title lenders to charge otherwise usurious rates on loans originated by banks are especially great given the serious repercussions of losing one's car. For further discussion of the harm caused by auto title loans, see section G below.

E. The proposal's statement that it does not address "true lender" is cold comfort as the proposal effectively encourages, rather than guards against, evasion of state law through rent-a-bank schemes.

The OCC's discussion of its proposed rule notes that the agency is not addressing the question whether the bank is the real party in interest or the "true lender" on a loan.[135] While the proposal would be even farther outside the OCC's authority if it purported to limit interest rates when the true lender that originates the loan is not a bank, this statement does little to mitigate the dangers of the proposed rule. This is particularly true when considered in the context of other recent and immediately relevant OCC

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[129] https://www.800loanmart.com/choicecash/.

[130] *Id.* The website also indicates that the interest rate and monthly payment will drop each month if certain conditions are met.

[131] *See generally* National Consumer Law Center, Consumer Credit Regulation, Chapter 12 (2d ed. 2015), updated at www.nclc.org/library.

[132] Fla. Stat. § 537.011.

[133] Ky. Rev. Stat. Ann. § 286.4-530(1) (West).

[134] *See generally* National Consumer Law Center, Consumer Credit Regulation, Chapter 12 & Appx. D (2d ed. 2015), updated at www.nclc.org/library.

[135] OCC Proposal, 84 Fed. Reg. at 64232.

and FDIC statements and actions. In fact, the agency's proposal has the effect of inviting, rather than guarding against, evasion of state law through rent-a-bank schemes.

First, the proposed rule would eliminate the clean line established by the *Madden* case that is simple to enforce (in addition to being consistent with the OCC's limited authority): The rate exportation provisions of federal banking law only preempt state usury laws as applied to interest that the bank charges, not interest charged by a non-bank assignee. It is simple for state regulators, enforcement officials, and consumers to see what interest rate a non-bank is charging. The true lender doctrine, on the other hand, requires review of the totality of the circumstances and can require years of litigation and facts that are not immediately publicly available—such as what relative share of the economic interest the non-bank has or whether the non-bank is immunizing the bank for the risk. Forced arbitration clauses will block consumers from bringing true lender cases on a classwide basis. And consumers cannot count on states to bring these cases, as enforcement and regulator resources are limited and in some parts of the country the state officials do not have a strong track record on consumer protection. Indeed, in a number of states today, consumers are being harmed by ongoing rent-a-bank schemes. Thus, the true lender doctrine alone cannot be expected to provide adequate defense against evasion of state law through rent-a-bank schemes.

Second, the OCC's unfavorable view of some rent-a-bank schemes appears to be toothless. The OCC stated in 2018 that it "views unfavorably an entity that partners with a bank with the sole goal of evading a lower interest rate established under the law of the entity's licensing state(s)."[136] This language—in contrast to the agency's historically very strong anti-rent-a-bank position (see section VI below)—is clearly so narrow as to invite abuse. By limiting itself to cases were evasion is the "sole" purpose, it risks green-lighting schemes where evasion is one of the purposes—perhaps even the dominant purpose. Lenders can always concoct additional rationales for their arrangements with banks. Moreover, the FDIC made the same statement in the proposal it issued accompanying the OCC's present proposal,[137] but has shown no indication that it "views unfavorably" the several rent-a-bank schemes ongoing under its nose, including the Republic Bank/Elevate scheme that has been going on for years.

Third, the OCC has already directly demonstrated how the proposed rule should be expected to work: to support predatory rent-a-bank lenders like World Business Lenders. As noted above, the OCC filed an amicus brief promoting the purported "valid-when made" theory this proposal promotes *to defend the validity of a predatory loan made through a rent-a-bank scheme*, without even suggesting that the bank might not be the true lender. Similarly, though the extraordinarily predatory *Rent-Rite* loan is clearly part of a business model, the OCC has done nothing to shut down predatory lending by WBL through OCC-supervised Axos Bank, as discussed above.

The proposal was made in the context of ongoing rent-a-bank schemes, including one the agency explicitly supported, with no indication that the agency will crack down on future schemes beyond one toothless sentence. The proposal can only be read to invite these schemes.

Predatory lenders will use the proposed rule to justify their arrangements and hope they are not challenged or that they can use forced arbitration clauses or other means to defeat challenges. As the rent-a-bank schemes become increasingly complex, courts, for their part, may find it easier to reject true

[136] OCC Bulletin 2018-14, Installment Lending, May 23, 2018.

[137] FDIC Proposal, 84 Fed. Reg. at 66846.

lender challenges and instead simply enforce a rule that the assignee may charge whatever interest the bank can charge.

F. The proposal fails to consider that it could encourage short-term payday lenders to return to rent-a-bank lending.

Some of the lenders that offer or are threatening to offer high-cost rent-a-bank installment loans also offer short-term payday loans. Enova's CashNetUSA offers both balloon-payment payday loans and long-term payday loans. CURO's SpeedyCash also offers short-term payday loans.

Currently, to our knowledge, rent-a-bank schemes are not being used to offer short-term loans, as they were 20 years ago. This is little consolation, as larger, longer high-cost loans are often an even bigger, deeper, more intractable debt trap than short-term loans.

Moreover, it is important to note that the arrangements between payday lenders and banks 20 years ago, and the arguments they made, were not that different from today's rent-a-bank lending. If the proposed rule is finalized, there is little other than the self-restraint of banks that would prevent short-term rent-a-bank lending from returning.

In 2000, the OCC itself described the older payday loan rent-a-bank arrangements in terms that are strikingly similar:

> [S]ome national banks have entered into arrangements with third parties in which the national bank funds payday loans originated through the third party. In these arrangements, national banks often rely on the third party to provide services that the bank would normally provide itself. These arrangements may also involve the sale to the third party of the loans or the servicing rights to the loans.[138]

In the older payday loan rent-a-bank schemes as in the newer ones, lenders argued that they were only the agent, service provider or assignee of the bank.[139] For example, as described in one case, Advance America was identified as "the fiscal agent and loan marketer/servicer." Advance America "procures the borrower and submits a loan application to BankWest. BankWest then approves (or denies) the application and advances all funds." The bank "used a separate third-party "loan processing agent" (an

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[138] OCC Advisory Letter No. AL 2000-10 (Nov. 27, 2000), https://occ.gov/news-issuances/advisory-letters/2000/advisory-letter-2000-10.pdf.

[139] *BankWest, Inc. v. Baker*, 411 F.3d 1289, 1295 (11th Cir. 2005) ("To avoid this direct prohibition, however, payday stores have entered into agency agreements whereby the stores procure such payday loans for out-of-state banks …"), *reh'g granted, op. vacated*, 433 F.3d 1344 (11th Cir. 2005), *op. vacated due to mootness*, 446 F.3d 1358 (11th Cir. 2006); *Flowers v. EZPawn Oklahoma, Inc*., 307 F.Supp.2d 1191, 1196, 1205 (2004) ("Defendants assert that they acted as servicers for the loan made by County Bank… Defendants submit that County Bank developed the loan product at issue, approved and made the extension of the loan to the Plaintiff and all others similarly situated, funded the loan …"); *Colorado ex rel. Salazar v. Ace Cash Express*, 188 F.Supp.2d 1282 (D. Colo. 2002) ("Defendant admits that it is a 'loan arranger/agent.'"); *Commonwealth v. Think Finance, Inc.,* 2016 WL 183289 (E.D. Pa. Jan. 14, 2016).

automated-consumer-information database that the payday lender itself used in other states) to electronically approve applications. [140]

As described by the OCC in 2000, decades ago the payday lenders not only performed services as an agent of the bank but also were assignees of loans that banks chose to sell to the secondary market: "BankWest 'owns' all the loans initially, but retains the right to sell a loan to any third party; Advance America, as the payday store has a right of first refusal on any loan the BankWest chooses to sell."[141] For example, one lender made arguments reminiscent of the OCC's that it stepped into the bank's shoes: "preemption applies to any challenge of interest or fees on a bank-issued loan … [and] preemption rights do not disappear when a loan is assigned or transferred from the bank."[142]

The OCC has failed to consider the abuse of payday loan rent-a-bank arrangements of the past and the reputation risk to banks that eventually drove the bank regulators to shut them down. Yet the core of the OCC's argument—that a bank has a right to sell loans, and that when it does the assignee steps into the bank's shoes—can be applied no matter what the interest rate or term of the loan.

Moreover, the OCC's repeal of its guidance against bank payday loans (aka "deposit advance products") leaves banks with no guidance against these pernicious short-term loans. Although the OCC's excuse for repealing that guidance was that the CFPB had finalized a rule governing payday loans, the CFPB has proposed to repeal that rule and it is currently stayed by a court.

Thus, the twin signals of repealing guidance that stopped banks from offering balloon-payment payday loans, coupled with a rule that says those loans may be assigned to and collected by anyone, may be all that is needed for this same "abuse of the national charter," as Comptroller Hawke called rent-a-bank schemes in 2002,[143] to return.

For discussion of the harm consumers experience at the hands of short-term payday loans, see section G below.

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[140] *BankWest, Inc. v. Baker*, 411 F.3d 1289 (11th Cir. 2005) ("To avoid this direct prohibition, however, payday stores have entered into agency agreements whereby the stores procure such payday loans for out-of-state banks …"), *reh'g granted, op. vacated*, 433 F.3d 1344 (11th Cir. 2005), *op. vacated due to mootness*, 446 F.3d 1358 (11th Cir. 2006).

[141] *BankWest*, 411 F.3d at 1295 n.6; *see* also People ex rel. Spitzer v. Cty. Bank of Rehoboth Beach, Del., 45 A.D.3d 1136, 1137, 846 N.Y.S.2d 436, 438 (2007) ("County Bank and TC [Telecash] entered into an agreement wherein County Bank agreed to make and TC agreed to market and service such payday loans….TC and CRA purchased a 95% participation interest in each and every loan made."); *Hudson v. ACE Cash Express,* 2002 WL 1205060, 2002 U.S.Dist. LEXIS 11226 (S.D.Ind. 2002) ("The Master Agreement provides that Goleta will sell an undivided participation interest in certain 'Bank Loans' to ACE [Cash Express]…. At the time of Goleta's loan to Hudson, ACE was required to purchase an undivided 95% participation interest in these loans.").

[142] *Think Finance*, 2016 WL 183289 at *13.

[143] Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Women in Housing and Finance at 10 (Feb. 12, 2002), https://www.occ.treas.gov/news-issuances/speeches/2002/pub-speech-2002-10.pdf; see further discussion in section VI below.

G. The proposal fails to consider that high-cost lenders that are or will be engaged in rent-a-bank lending make loans that severely harm financially vulnerable consumers.

1. Harm in general.

In recent years, the harms of high-cost lending have been more comprehensively and thoroughly documented than ever before.[144] High-cost lending is a debt trap by design, exploiting the financially distressed and leaving them worse off, leading to a host of financial consequences that include greater delinquency on other bills,[145] high checking account fees and closed accounts,[146] and bankruptcy. [147]

Across the board, borrowers of high-cost loans are already struggling to manage existing credit obligations. The credit scores of Elevate's borrowers typically range from 511 to 626.[148] Elevate's Elastic borrowers have a median income of $39,500.[149] Its Rise customers also have modest, if somewhat higher, incomes averaging $53,600,[150] but they are clearly struggling, as the stories described below attest. The profile of short-term payday loan and auto-title borrowers is even more dire: their median credit scores are deep subprime or subprime, averaging 525-530, with about 85% of borrowers with scores below 600.[151] They typically earn $25,000-$30,000 per year.[152]

A fundamental, perverse reality drives the high-cost loan market: Borrowers meeting this profile are not likely to have the ability to repay the loans high-cost lenders make to them; lenders know this and depend on it, as the interest rates are so high that they make money anyway. For short-term loans, borrowers cannot afford the large balloon payment without borrowing another loan to repay the first,

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[144] *See* CFPB, Rule Addressing Payday, Vehicle Title, and Certain High-Cost Installment Loans, Final Rule, 82 Fed. Reg. 54472 (Nov. 17, 2017) (CFPB Payday Rule) and Docket No. CFPB-2016-0025 associated with that rule; *see* CRL and NCLC's comments to that docket, filed with additional consumer and civil rights groups, here: https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_payday_comment_oct2016.pdf (CRL, NCLC, et al., Comments on CFPB Payday Rule); *see id.* at §2, pp. 17-40 (discussing harm to consumers).

[145] *See, e.g.*, B. Melzer, *The Real Costs of Credit Access: Evidence from the Payday Lending Market*, (2011), Oxford University Press, *available at* http://bit.ly/10M01tZ; Agarwal, S., Skiba, P. M., & Tobacman, J., *Payday loans and credit cards: New liquidity and credit scoring puzzles?* NBER Working Paper (2009), *available at* http://bit.ly/RtDsXx.

[146] CFPB Payday Rule, 82 Fed. Reg. 54564, 73; *see also* Dennis Campbell, Asis Martinez Jerez, & Peter Tufano, *Bouncing out of the Banking System: An Empirical Analysis of Involuntary Bank Account Closures,* Harvard Business School, 12/3/08, *available at* www.bostonfed.org/economic/cprc/conferences/2008/payment-choice/papers/campbell_jerez_tufano.pdf.

[147] Paige Marta Skiba and Jeremy Tobacman, *Do Payday Loans Cause Bankruptcy?,* Vanderbilt University and the University of Pennsylvania, 10/10/08, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266215.

[148] Elevate 10K, 2018, at 9.

[149] *Id.*

[150] *Id.*

[151] *See* CFPB Payday Rule, 82 Fed. Reg. at 54556-58.

[152] *Id.*

and the long-term cycle of debt drives the business model for lenders. For longer-term loans, borrowers often cannot afford the still-large payments on payday, or, even if they make some payments, they cannot *sustain* those payments for the life of the loan and ultimately pay it off. NCLC has shown how high interest rates on longer-term loans create misaligned incentives that lead lenders to want—and to profit off of—borrowers who will struggle and default at high rates.[153]

The dangers of high-cost, longer-term loans have become apparent, as payday lenders have increasingly shifted to these loans, or offered them alongside short-term balloon-payment payday loans. These loans include so-called "fintech" loans that attempt to portray themselves as better alternatives to payday loans, but which, in most significant respects, are not distinguishable from loans by traditional, "non-fintech" payday lenders. All of these longer-term loans typically still carry extremely high interest rates, are still tied to repayment on payday, and are still made with little regard for the borrower's ability to repay the loan while meeting other expenses.[154] These loans have the potential to inflict as much or more harm—creating a deeper, longer debt trap—for borrowers than two-week payday loans.[155]

Just like short-term payday loans that have very high rates of refinancing and default, the performance of longer-term high-cost loans reflects distress. The CFPB found that for online payday installment loans, (the channel for most new "fintech" loans) refinance rates were very high,[156] and a full 55% of loan sequences ended in default.[157]

Publicly available information about one high-cost lender already engaging in rent-a-bank schemes demonstrates this high-cost, high-default model. Elevate's entire book of business carries an average APR of 129%.[158] Elevate's nationwide charge-off rates as a percentage of outstanding loan volume in 2014 was over 50%.[159] Elevate's net charge-offs as a percentage of revenues is 52%,[160] a metric that Elevates states it does not intend to drive down.[161] Essentially, Elevate's is a high-rate, high-default model that profits while making unaffordable loans.

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[153] Lauren Saunders et al., NCLC, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* (July 2016), https://www.nclc.org/issues/misaligned-incentives.html.

[154] CRL, NCLC, et al., Comments on CFPB Payday Rule at § 2.5 (pp. 31-34) and § 10.1-10.3 (pp. 165-172). *See also* CFPB Proposed Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans, discussion of longer-term high-cost loans, 81 Fed. Reg. 47864, 47885-92 (July 11, 2016).

[155] *Id.*

[156] CFPB Supplemental Findings on payday, payday installment, and vehicle title loans (June 2, 2016) at 15 (35% for storefront, 22% for online).

[157] *Id.* at 22 (55% for online; 34% for storefront). On a per-loan basis, the default rate is 24%.

[158] Elevate Form 10K, 2018, at 78.

[159] As calculated by the CFPB, CFPB Proposed Payday Rule, 8c1 Fed Reg. 47886, n.246. CFPB's calculation is consistent with rates calculated by NCLC using California data. Lauren Saunders et al., NCLC, Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default (July 2016), https://www.nclc.org/issues/misaligned-incentives.html.

[160] Elevate Form 10K, 2018, at 78.

[161] *Id.* at 86.

Research CRL released recently documents the experience of focus group participants in Colorado, where high-cost longer-term payday loans averaging 129% APR often triggered significant additional financial hardships for borrowers.[162]

Auto title loans can be particularly devastating. In addition to inflicting the same harms caused by payday and other high-cost installment loans, auto title loans put borrowers at substantial risk of losing their car. Research has found that an astounding one in five auto title borrowers have their car repossessed.[163] The consequences of losing one's vehicle are dire—both the loss of a valuable asset and the serious disruption of a borrower's ability to get to work, earn income, and manage their lives.[164] More than a third of auto title borrowers have reported pledging the only working car in their household as security for their auto title loan.[165]

Mere statistics on the loan performance of high-cost loans, staggering as they are, do not do justice to the brutal financial, emotional, and physical turmoil these toxic products inflict. The distress can pervade every facet of a person's life, often extending to the borrower's family members as well. Growing research documents the links between high-cost loans and negative health impacts.[166]

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[162] Center for Responsible Lending, *Sinking Feeling: Colorado Borrowers Describe Their Experiences With Payday Loans* (July 2018), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-sinking-feeling-jul2018.pdf.

[163] CFPB Single-Payment Vehicle Title Lending at 4 (2016). CRL estimates that approximately 340,000 auto title borrowers annually have their car repossessed, well exceeding the population of St. Louis. For calculation, *see* CRL, Public Citizen, NCLC et. al comments on CFPB's proposed repeal of the ability-to-repay provisions of the payday rule at 26, n.90 (May 15, 2019), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/comment-cfpb-proposed-repeal-payday-rule-may2019.pdf.

[164] *See* CFPB Payday Rule, 82 Fed. Reg. at 54573, 93.

[165] CFPB Payday Rule, 82 Fed. Reg. at 54573 & n. 592 (internal citations omitted).

[166] One finds that access to payday loans substantially increased suicide risk—including by over 16% for those ages 25-44. Jaeyoon Lee, *Credit Access and Household Welfare: Evidence From Payday Lending* (SSRN Working Paper, 2017. Another finds that short-term loans, including payday loans, are associated with a range of negative health outcomes, even when controlling for potential confounders. Elizabeth Sweet et al., *Short-term lending: Payday loans as risk factors for anxiety, inflammation and poor health,* 5 SSM—Population Health, 114–121 (2018), *https://doi.org/10.1016/j.ssmph.2018.05.009.* These outcomes include symptoms of physical health, sexual health, and anxiety, as well as higher levels of C-reactive protein, which is an indicator of many long-term diseases, including cardiovascular disease, and an indicator of psychological stress. *Id.* Another study finds that restrictions on payday lending reduced liquor sales. Harold E. Cuffe & Christopher G. Gibbs, *The Effect of Payday Lending Restrictions on Liquor Sales,* 85(1) J. Banking & Fin. 132–45 (2017). In one study of qualitative data, respondents revealed symptoms of "allostatic load," a health psychology term that describes how compounding stress can lead to wear and tear on the body. Elizabeth Sweet et al., *Embodied Neoliberalism: Epidemiology and the Lived Experience of Consumer Debt*, 48(3) International Journal of Health Services (2018). The authors describe the respondents as having "embodied" their debt through idioms like "drowning in debt" and "keeping [their] head above water," which illustrated that the participants "experienced debt as a bodily sensation, not only a socioeconomic position or emotional stressor." *Id.* One payday borrower has reported that after being a "a pretty healthy young person," she "became physically sick, broke out in hives . . . [and] had to go to urgent care" as a result of her high-cost loan. Health Impact Partners and Missouri Faith Voices, *When Poverty Makes You Sick: The intersection of health and predatory lending in Missouri* (Feb. 2019), https://humanimpact.org/wp-

Below are narratives from the CFPB complaints database describing borrowers' experiences with high-cost installment loans by lenders currently engaging in rent-a-bank schemes (Elevate, OppLoans, Enova (NetCredit brand), and LoanMart), or who have stated that they intend to (CURO (SpeedyCash brand)). While many of these complaints so far do not involve rent-a-bank loans, they are illustrative of the type of loans these lenders make that they will bring to states that do not allow high-cost loans.

In addition, in light of the risk that the OCC's proposal would promote growth of both short- and longer-term payday and car title loans through rent-a-bank schemes, attached at Appendix B are over 150 borrower experiences with short- and longer-term payday and car title loans from a variety of lenders.

Elevate:

- I am a single mother who is living . . . below the poverty level. I have had my share of credit problems and have owed more than I make for quite some time. I was misled by Rise Credit to believe that they were unlike other predatory loan companies. By the time I understood what I had [signed], I had paid them thousands of dollars in interest. I have recently become temporarily unemployed and called them to ask for help during my time of financial hardship. They refused any solution and my account is headed to collections now . . . . [T]he total paid is far over the amount I initially borrowed from Rise . . . . This is robbery and all of the necessities I have for myself and my children are suffering because of it . . . . How is it that they can do this? I am asking for help for not only my family, but for all of the families targeted by these predatory loans meant to target those living in poverty and struggling to live paycheck to paycheck.[167]

- [T]hey are charging me over $6000.00 interest on a simple loan for only $2600.00 . . . . i did not forsee such an impact on my monthly income for so long ... that $500.00 is supposed to be the monies I have left over after bills and survive/live on after all my other bills. They have access to my bank account and automatically take it out . . . . I do not know how to stop this madness. How can they charge me over $8000.00 for a $2600.00 loan? Is this legal?[168]

- My [] mother was solicited by a predatory lender, RISE for a personal loan. She agreed to $1300.00 loan but was told the California law stated the minimum loan amount was $2600.00. Her interest rate is 125 %, how is this legal? She is on a fixed income and RISE has set up an auto pay with her checking account with a monthly payment of $470.00 . . . . This is elder abuse! Please shut this company down.[169]

- To date I have paid well over $6900.00, almost three times the principle. I still owe close to $3000.00. Prior to accepting the loan I did read the " fine print '' but it was not easy to understand. It was not explicit[ly] stated that the monthly payments would be going to the interest and not to paying down the principle, making the loan impossible to pay off quickly. I called . . . and asked specifically for an amnesty on the remaining balance because I am having a

content/uploads/2019/02/HIP-MFV_PayDayLending_2019.02fin1.pdf. Another expressed feeling, "[i]f I died, my debt would die with me. At least I could give my family that." *Id.*

[167] #1487339 (California borrower)

[168] #1361463 (California borrower)

[169] #1584177 (California borrower)

hard time paying on this exorbitantly high interest loan for over 12 months. I also explained to her that to date I had paid almost three times the principle . . . . in the end, the total paid before it is satisfied will be over $9500.00! Paying $7500.00 in interest for a $2500.00 loan is outrageous and should be illegal.[170]

- I took a loan with rise credit . . . and I was unable to make timely payments. I expected to pay it once I received my tax return. However, it went to collections and then a lawyer and they added so many penalties and fees. Now I owe XXXX for a XXXX loan. Now, they are garnishing 25 percent of my paycheck and I 'm already struggling as it is.[171]

- I am a visually impaired person, with a monthly income of less than $900. I can surely say that I had no idea that the monthly installment would not be applied to the principal loan amount. After my aid read to me just a few days ago that I was not paying off the loan all of the money was going to interest and only {$19.00} was applies to the principal. But I do not have that kind of money. I am requesting that you cease deducting {$520.00} from my bank account . . . . I have struggled for the last five moths giving RISE most of my income, and I can not make the rent, utilities, or food.[172]

- I have a high interest installment loan through Rise. I pay $220.00 every 2 weeks with $16.00 of that going to the principal. I had a medical procedure done that kept me out of work for just a little more than a month. I did not receive a paycheck during that time. This has put me a few payments behind on my loan as they come due every 2 weeks. I am trying to get this all worked out so I can catch up with them over time as I just started back to work today. My issue is when I came back today I was told by my coworkers that this number called (XXXX) so many times a day that they turned off the phone in our office. . . . . I am willing to work something out with them but calling my work to harass me and doing multiple attempt debits to my bank account that has no money in it racking up a ton of fees. This is not helping their cause as I have to pay my bank now instead of putting that money towards catching up on my loan. They tried withdrawing twice within a few minutes during XXXX attempt which racked up an instant $70.00 more to my bank account fees like the money was going to instantly appear in there after the first attempt a few minutes earlier.[173]

- We originally signed up for a $3,000 [loan] with an interest rate of 208%. I have been paying $520.00 every month and paid a total of $5500.00 . . . . This has been a burden for me and my family. As an [redacted] military member, i have reached out to my chain of command regarding this issue. I have been advised by financial counselors that in accordance with Military Lending Act says that you can't be charged an interest rate higher than 36 % on most types of consumer loans and provides other significant rights. I am currently working with my local Judge Advocate General 's Office to get some help with legal issues.[174]

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[170] #1962588 (California borrower)

[171] #2181870 (California borrower)

[172] #2202311 (California borrower)

[173] #2303749 (Missouri borrower)

[174] #2442651 (U.S. Armed Forces - Pacific borrower)

- I received a mail out stating that I was pre-approved for credit and to go online and apply. I did so and entered into a line of credit agreement in the amount of $2500 . . . . The payments are bi-weekly and the second one jumped to $240.00. My gross income is XXXX per month. I have XXXX child and simply can not afford this high of a payment. My father called . . . and tried to get the company to lower the payment. They said that they could do whatever they wanted to and refused to address my concerns. The APR on this loan was 199 %. I feel this company is operating on an unfair and deceitful basis.[175]

- Why are my payments not reducing my principal balance? My statement for month 1 states that my balance is $3800.00. It said I owed $430.00. I paid it. The next month my bill was $540.00 and I paid it. After that payment was applied (?) my total balance owed wasn$3800.00. So I asked them why my balance was only reduced by $3.00 even though I had paid them almost $1000.00 . . . . please help me. This can not be right.[176]

- I have fallen on hard times . . . . I borrowed $1200.00 and have paid back $1100.00, however due to the interest rate being so high [I owe a] balance of over $1000.00 still. I was told when I took this loan that after a period of time I would be able to refinance the loan and lower my payments. This was not true, I have attempted to refinance and the APR is the same 291 %. I would like to cancel my account and come to an agreement that works for both of us. I am a single mother and paying $160.00 every time I get paid equaling to $260.00 per month is unbearable. I have also [made] large payments over the past few months hoping this would decrease the balance and it has not.[177]

- On XX/XX/17 I needed to pay for a major repair on my vehicle and had to refinance an existing loan I had with Rise credit to an amount of $2500.00. Since that date I have been making regular payments twice a month of $230.00 and it has all been interest. I have made 21 payments, so over $4000.00 in interest and my principal balance has not gone down at all. I am at a loss of what to do, because I was in a tight spot but had I known id be living this nightmare I never would have taken out this loan.[178]

- I would have rejected/not accepted the loan if I had realized it was a 238.36% interest rate. They set up ACH installment payments of $410.00 a month which I can not afford . . . . I am on Social Security XXXX (Fixed income) with limited resources . . . . I can't believe that this is legal-this is more like loan sharking and preying on people who are not able to defend themselves. I am more than willing to pay the $2000.00 back at a reasonable interest rate and reasonable monthly payments of $200.00 a month (ie ... a credit card rate for people with limited resources perhaps 25-28 %?)[.] [N]ot 238.36 %[. H]ow can this even be legal?[179]

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[175] #2764858 (Kansas borrower)

[176] #2816269 (Tennessee borrower)

[177] #2858004 (Wisconsin borrower)

[178] #2942998 (North Dakota borrower)

[179] #3141291 (Wisconsin borrower)

OppLoans:

- I am being contacted everyday, with the exception of Sunday, for a month. The[y] want the loan paid but, I am unemployed and a [] veteran. I have tried to explain this to the company. However, they continue to contact me. It's the same thing everyday.[180]

- I have been paying this loan for more than a year and the principal has not changed. I borrowed $2000.00 and have paid $4600.00 into this loan to date….[181]

- I contacted this firm opp loans several times . . . regarding the high interest[] rates being charged on my loan. I informed them that [we are] military spouses and famil[ies] . . . that we are protected against high interest rates. They informed me that they needed proof to review my interest rate. They then informed me that spouse loans are not covered under the military lending act and was notified by their legal department. My current interest rate is 159 % on short term installment loan. Please assist[182]

- This company calls me 6 times or more a day. I informed them . . . that I had lost my job and I would call them back when I start work again and get my finances back on track. They dont care they have been calling non stop. They have made it harder for my recovery.[183]

- I had a loan with this company for about $2000.00[,] now i went on short term [leave or disability] with my job and didn't get paid [and] called the company [and] explained why I couldn't make payment . . . . I really dont know what to do but i have arrangements with other companies after they knowingly understood my dilemma. Im upset that i have to pay all the fees and loan with no arrangement and still be a single mom and live. Now they are emailing and calling me saying they will garnish my bank account for 20 years and my check and so on. Im very afraid and dont want to be homeless or behind over 4500 dollars.[184]

- I work as an [] for my [daughter], who was in the Intensive care unit . . . . When my daughter is hospitalized I do not get paid. After being in the hospital for a month I signed an Opp loan for $2600.00 . . . . I have paid them over $3600.. Today they tell me that I owe them $2800.00 . . . . [185]

- I . . . took out the loan[.] I am not disputing the loan[.] I had a downfall in life and defaulted . . . . I . . . received a " Notice of Intent to Assign Wages[.]" I spoke to [a representative] who refused to assist. [H]er only option was for me to pay $560.00 now and make the original monthly payments. I stated to her I do not have that money[.] I really do not[.] I need help[.] [S]he refused to offer me any solution. I currently have $100.00 in my checking account. I asked to

[180] #2812101 (Tennessee borrower) (appears to be a rent-a-bank loan)

[181] #3106431 (Maryland borrower)

[182] #3354050 (Michigan borrower) (appears to be a rent-a-bank loan)

[183] #3371847 (Arizona borrower) (appears to be a rent-a-bank loan)

[184] #3015405 (Illinois borrower)

[185] #3028087 (California borrower) (appears to be a rent-a-bank loan)

speak to a supervisor and she refused to allow me to speak to a supervisor . . . . I think this company has no intentions to help anyone who is struggling.[186]

- I took a payday installment loan for the sake of building my credits . . . . I then told them I am not doing it through debit card anymore . . . . as per contract, it doesn't say I have to use my debit card as a routing number was a condition for approval. This week . . . they contacted my employer and decided to garnish my wage. This is unfair to me as I wasn't informed and it is not my fault, I never refused to pay or change my account. They didn't do their responsibility to deduct money while I gave my account information (confirmed today they still have). This is unfair garnishment and punishment to me because of their fault (or their systems) . . . . I urge your help to assist me to remove this unfair garnishment on me and let the company comply with their promises. I also ask you to judge this and make Opploans repair my damaged credits that were caused by this unfair transaction. I am not delinquent to this transaction.[187]

- I emailed company . . . and then I also called and rescinded the wage assignment. I sent an email to the CEO office and also spoke to several representatives to try to reach a settlement for the principle amount of the loan. The amount when I asked for the settlement was XXXX. This would have had the company write off about 200 in interest only. There was a los[s] of income in my household. So to prevent a long term impact to my credit and finances, I asked to settle the account. I was informed that I had to be at least 61 days behind and that if I made a minimum payment of XXXX that I would stay in a positive balance. This did not make sense as this would also keep the account in a current status. This would also cause more interest to accrue over time. I wanted to settle the account, close the account and avoid negative impact on my credit, and more fees. The company refused to work with stating the contract was enforceable. This would benefit the company to continue to accrue more interest and fees over a period of time and impact the consumer in a negative light.[188]

<u>Enova (NetCredit brand)</u>

- On XX/XX/2016 I was approved for a personal loan with NetCredit. I was unaware of the future circumstances and took out a very high interest loan, 99 % interest on a $2000.00 [loan]. I have become a XXXX veteran and unemployed at the moment due to my condition. The total amount that I will be paying back on a $2000.00 loan is $7800.00. I have been paying on this loan since that date. [The complaint was filed on May 2, 2019.][189]

- Netcredit is a company that [is] not interest[ed] in listening to any complaint or trying to work with [] me to help because I can't pay the high amount of interest[,] and the very little amount going towards the principle [--] that is unfair and wrong for anybody to have to do. I am not trying to not pay them but I have a problem with them trying to lock me in a five year loan which they seek to collect three time the loan amount they gave me. I am a XXXX Veteran that

[186] #3027480 (Illinois borrower)

[187] #3190625 (Illinois borrower)

[188] #3407914 (Illinois borrower)

[189] 3229883 (South Carolina borrower)

gets a monthly check that all I have to live on[.] [F]or Netcredit to do this is shameful and disgraceful. PLEASE HELP!![190]

- At the time, I had been struggling financially because . . . I lost the father of my [] children. I lost more than half of our income and could not keep up on my salary alone. I became in over my head with debt to many people . . . . I took out the loan through NetCredit for the amount of $3700.00 . . . I was steadily making payments every two weeks on this loan for $230.00 . . . I am a XXXX employee who was out of work and without pay for the duration of the XXXX . . . NetCredit deferred my payments without question or hesitation giving me the peace of mind that everything was going to be okay . . . . [M]y intent was to pay the balance in full. What NetCredit failed to tell me was that the payments I had made toward the loan did not go to the principle whatsoever . . . . By the time the XXXX was over, they had tacked on over $1000.00 in interest to the loan. Despite almost paying the loan off, they still reported I owed $3700.00 plus accrued interest at that time. They told me that since I had been in non-pay status for so long . . . that if I didn't make a payment immediately they would send me to collections . . . . They have yet to close the account and are continuing to rack up interest and report the balance of the loan increasing every month. They are reporting that I owe 6600.00 . . . . I am a single mother of [] children who are not even old enough to be in school yet. I can not afford what they are putting on me and they are making it so I can not provide for my family by destroying my credit.[191]

- I got a loan in the amount of $2100.00. [D]ecided to login into my account to see how much principal was left on the loan and its $2100.00. Only $57.00 paid to principal in the last year. Ive made all my payments on time, $58.00 every 2 weeks. Something can not be right with this loan. I feel as though Ive been getting robbed for the past year. I do not understand. My [fiancé] has a loan with NetCredit as well within the same timeframe . . . Loan amount $3000.00 . . . principal is only down to $2900.00. Her payments are $78.00 every 2 weeks, never missed a payment. Please help![192]

- I was contacted by netcredit advising that I was pre approved for an installment loan. As I am a single mother of XXXX and have been . . . behind on HOA fees and other bills and decided to take out the loan . . . . I checked an account that I used and realized that they were taking out the XXXX every 2 weeks . . . . I told them I could not afford the XXXX coming out every 2 weeks as this is not what I [anticipated]. This has brought my checking account seriously negative and my bank is giving me a hard time as well . . . . I feel this is very deceptive, [an] installment loan is supposed to be a monthly payment[,] a payday loan is a bi weekly payment. I really need help with this. I can [make] [monthly] payments[,] I can not make bi weekly payments of XXXX[,] that is too much and it is really creating a hardship for my family.[193]

- I took out a loan in 2014 with NetCredit for $2600.00. I paid on the loan for 40 payments . . . . I ran into an inability to pay and wanted to work with Net Credit to settle the loan. I even hired a

[190] #3251851 (Georgia borrower)

[191] #3370736 (California borrower)

[192] #3393212 (Virginia borrower)

[193] #3053313 (Utah borrower)

firm to assist. Net Credit was not willing to work with the firm nor myself and an agreement was never reached. My fear is that they are holding back wanting to work with me while late fees and interest continue to accrue at an alarming rate.[194]

- I am disputing this loan based on that it is impossible to pay it off at 98.8 % . . . I will pay over $7000.00 for a $3900.00 loan at 98.8 % . . . . I have called and spoke with them about 10 times within the last 3 1/2 weeks. NETCREDIT WILL NOT WORK WITH ME OR DISCUSS ANY OPTIONS WITH ME. All I am asking for is to take the interest away from this loan and allow me to make monthly payments that I am able to handle. I understand my responsibility of the balance of the loan but they do not work with their consumers, instead make a profit with predatory lending practices.[195]

- I offered NetCredit a reasonable settlement amount which they dismissed and demand full payment which is completely insane. I had no idea after I paid $3000.00 on $3400.00 loan that I would have to pay an additional $4000.00 to pay it off or continue making the payment and by the time it was paid off I would have paid many thousands of dollars.[196]

- I took a loan from NetCredit in the amount of $1200.00. To date I have made 11 payments at the payment amount of $100.00 each for a total paid of $2000.00 plus a check payment of $100.00 which has not been cashed or applied to my account. NetCredit states I still have fourteen more payments of $100.00 each to make. For a $1200.00 loan, I will end up paying $3600.00, more than THREE TIMES the loan amount!![197]

- [I] [b]orrowed $1400.00 . . . Paid [x]payments of $110.00 = $1100.00 . . . balance is currently $1400.0 . . . Was unable to keep up with payments due to XXXX income (was unemployed for 10 months- catching up on past debts and medical bills). Several attempts were made to set up payment agreements with NETCREDIT . . . but Net Credit didn't agree . . . . I was NOT aware the interest on $1400.00 would be $1200.00 (almost the amount of the loan). I would have NEVER agreed to this loan. I am a veteran and XXXX civilian on a tight budget. This interest charged on the loan is hideous. I could have borrowed that amount from a local bank/lender and not have that much in interest. This is a horrible way to take advantage of those that are in need![198]

- NetCredit is a company that take advantage of people ... they approve your loan on line then hit you with 98 % interest . . . . I took a loan out for $6000.00 ... once I found out the loan was to be taken out of my checking account 2x a month [] I called and asked them to adjust to 1x a month ... they said they couldn't do ... this was the biggest mistake I have ever made to take a loan out [] with them ... I was unable to pay and got in touch to work something out ... they sent gave me minimal options and then sent a letter saying that I can pay off the balance which now is $7800.00 . . . . I had been paying the monthly for a year at least??? and now I owe XXXX

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[194] #2418022 (California borrower)

[195] #2183667 (Virginia borrower)

[196] #3270880 (California borrower)

[197] #3324359 (South Carolina borrower)

[198] #2144831 (Virginia borrower)

more??? This is a company that the government should look into … they are sharks!!!! I would recommend that people stay away from this company!!![199]

LoanMart

- I have this loan and ... being a senior citizen the payment[s] are [too] high[.] I am [p]aying $420.00 each month[,] have not paid for this month[,] and they can take my car at anytime[.] I am trying to work with them[,] my health is now becoming poor as I can not sleep . . . . I want to pay them and I will but I need the payment to be [up to] $320.00 per month[,] which would be a hardship but I could do that . . . . had I known I would not have take[n] this loan out and would have just gone homeless . . . .at least I would have had a car to sleep in and live not . . . on the street with no car or a place to live[.][200]

- I have been paying monthly, often times after . . . my due date, but I get the payment in monthly. On two occasions I was given extensions, but I have paid way more than the $1500.00 loan amount and expected to be paid off . . . . I was told because I was late many times, my loan has been extended for approx 20 more months, unless I can come up with the $1500.00 original loan amount plus $680.00 in late fees. Had I paid on time by the 11th if every month I would be paid off. When I told them that was ridiculous that it was still paid in the same month they told me too bad . . . . so now I have to pay another $4000.00 plus dollars ({$210.00} x 20) on time . . . or it may take longer . . . . I [will] never get my title back or get this loan paid off … . I will be paying over $8000.00 on a $1500.00 loan.[201]

- My Loan charged off . . . . after i turned [in] the vehicle . . . . They auctioned off the vehicle and sent me a final charge off amount of $2600.00 . . . I received a payment settlement request in XXXX of XXXX for $1500.00 . . . As of today, they are reporting that i owe $7700.00 as the interest is still being charged on a loan they have been " charged off ''. They are . . . inflating the amount owed to well over 300 % of what the original loan was . . . . They already have my car, now they want to ruin my credit. They are predatory [and] overly punitive with high interest after the charge off.[202]

- I was in need of a loan to move and the television and radio were [inundated] with advertisements from "1-800- Loan-Mart XXXX[.]'' I called and they offered me a " title loan '' for $10000.00 specific to my . . . Toyota Camry. The payment was and remains a staggering $850.00 per month. Also, my ex-husband bounced a check to me . . . which prevented making a payment so I called for an extension [but] they repossessed my car . . . and charged me almost $2500.00 to get the car back . . . . I have been paying the $850.00 monthly for over two years and the principle balance or payoff remains just a [little] less than the original loan. What guidelines

[199] #1998233 (California borrower)

[200] #2894498 (California borrower)

[201] #3126449 (Wisconsin borrower)

[202] #1792457 (California borrower)

regulate the loan industry and why are they permitted to be rude, abusive and lend money like . . . loan sharks?[203]

- 1 800 Loan Mart has repeatedly called me 30 times a day for the last 7 months[,] also have incorrectly reported negative things on my credit report, also called and threatened me with imprisonment lawsuit . . . [A]fter I paid them $4000.00 and they took my vehicle[,] now they're saying I still owe them $5000.00[.] [T]he original amount of loan was $2500.00.[204]

- I needed money to pay for my moving expenses. I took a title max car loan. I 've tried to keep up with the payments but fall short so my payments are late and include a hefty penalty payment in addition to interest . . . . My plan is to pay the entire bill with large lump sum payments. The problem is the amount that is added to the principal balance makes it difficult to pay the loan off. My car was reposed this morning. In order to get my car back, I must pay them $900.00 which includes towing, paying for personal property left in the car and making a trip to the police department to obtain a [repossession] receipt. This is robbery.[205]

- I took out a loan in . . . 2014 for $5700.00. I've made payments of $450.00 since then [totaling] about $8000.00. I just recently got a payment history to see my balance due and almost none of my payments have applied to principal balance, almost all of it has gone towards interest! I spoke with a customer service rep today and they still want $7000.00 to close [the] account. I told them I no longer have a steady job or income and have been going through health/medical issues and have been in and out of the hospital. I just want to settle amount of another $1000.00 to close account. I 've already paid back the $5700.00 and interest of more than $2000.00 and still going to give $1000.00 to settle. I 'm trying to be honest with them and get a settlement and close my account.[206] (This complaint was submitted on August 12, 2016).

<u>CURO (SpeedyCash brand)</u>

- Speedy Cash took money from my . . . debit card without my authorization. I receive my social security SSI payments in the amount of $730.00 on this card . . . my card was debited by Speedy Cash for the amount of $520.00. When I called them they stated that my account was past due . . . and that it had gone into collections . . . . They also said that there was nothing they could do because the third party collector was involved . . . When I called [the third party], the representative told me that they were not involved in collecting on this account any longer because Speedy Cash had taken the loan back. I am confused by the back and forth. Now, I am in a horrible position. My account was basically drained which leaves me with no money for the entire month. No money for rent, utilities, doctor visit, or prescriptions. I . . . have no idea what I am going to do.[207]

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[203] #1867122 (California borrower)

[204] #2356677 (California borrower)

[205] #2157776 (Nevada borrower)

[206] #2958482 (California borrower)

[207] #2657445 (Missouri borrower)

- I have paid $1600.00 on the account and all payments have gone towards the interest and late fees. I have given seven payments at $220.00 each month since the loan and I owe at this time $2800.00 at this rate the loan will cost more than I borrowed. I need help because this is a car title loan and I can't afford losing my car over this. I have called the corporate office and . . . they all say the same thing (--) there is nothing that can be done except keep making the payments . . . It's like I borrowed the monies from [someone] in a street alley.[208]

- I borrowed $750.00 . . . .First month repayment . . . $240.00 . . . . Remaining balance over $1000.00. Next installment $240.00 . . . remaining balance over $1000.00. Payments increase as does amounts owed. Decline in principal is offset by increase in fees or 'interest.' . . . . Never ending cycle.[209]

- [I] borrowed $1300.00 from speedy cash and the first payment was ok ($77.00) and after that they were $140.00 every other week and [I] am now unable to make these ridiculous payments [because] my hours have been cut at [work]. I notified them . . . I am in default and [I] have sent emails . . . . [T]hey say to contact them if [you can't] make a payment and they will work with you. All they do is extend it 4-5 days out and [that don't] help either! I am desperate[, I] have called about filing bankruptcy and [I] may have to and [I don't know what else to do.[210]

- Speedy Cash stopped the payday loans and changed to the installment loans . . . . If your payment is due on a certain day they could move it up by 4 days but it [doesn't] help if that 4th day is not a payday. I have paid so many overdraft and bank fees until I feel ashame[d] and stupid. I needed the money but once you get it [it's] hard to get rid of it. I [don't] understand [what's] hard about reasonable payment arrangements. Your 4 day extension is not realistic to customers.[211]

- I currently have an installment loan in the amount of $2600.00 from Speedy Cash . . . . At the same time, I also have [x] $300.00 payday loans from [x] different storefronts in my neighborhood, including Speedy Cash. So basically, I have both a $300.00 payday loan from Speedy Cash and a $2600.00 installment loan. Is that legal? I am drowning in debt and I can't handle it anymore. I need some relief. This is very stressful and expensive for me, and I don't know what to do . . . . . I 've been paying about $140.00 every two weeks on the Speedy Cash installment loan, and I 've already paid $2200.00 . . . but my total balance is still $2600.00! How is this even possible? Are all my payments going toward interest only? I can't keep paying on all these loans. I need to prioritize my rent ($1100.00), car payment ($320.00), insurance ($180.00) and my other basic needs like food and utilities. After taxes, I only bring home about $1800.00 a month. So this is really hurting me and I 've reached my breaking point . . . . I don't want to default on the loan, but at this point I'm not seeing another alternative. I recently received XXXX

[208] #2792493 (California borrower)

[209] #2772146 (Utah borrower)

[210] #3046440 (Tennessee borrower)

[211] #2718087 (Mississippi borrower)

utility disconnection notices from my gas, water and light companies[.] To make matters worse, I'm also facing being laid off from work in the next few months. I need help.[212]

- I could not get Speedy Cash to stop taking payments out of by bank account using my debit card. I called them, I wrote them. I tried to set up payments. I told my bank to not authorize any more payments. Didn't help. Finally I had to shut down all my accounts at my bank and go to another bank. I could not believe it when I when, at my new bank, Speedy Cash withdrew $100.00, the next day $60.00. I have no idea what that amount is for. I'm disputing the charges Can you help me?[213]

2. Particular harm to communities of color.

High-cost lending disproportionately harms communities of color, exploiting and perpetuating the racial wealth gap. A legacy of racial discrimination in housing, lending, banking, policing, employment, and otherwise, has produced dramatically inequitable outcomes that persist today. Communities of color, often largely segregated due to the history of redlining and other racially exclusionary housing policies, experience higher rates of poverty, lower wages, and higher cost burdens to pay for basic living expenses. Payday lenders peddling unaffordable loans cause particular harm to these communities,[214] which several of the undersigned groups represent.

Storefront lenders, which often offer both short-term and longer-term loans, target borrowers of color, in part by concentrating their locations in communities of color.[215] Indeed, the communities most affected by redlining are the same who are saturated by payday lenders today. Multiple studies have found that payday lenders are more likely to locate in more affluent communities of color than in less affluent white communities.[216] In light of this targeting, it is unsurprising that a disproportionate share of

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[212] #1377341 (California borrower)

[213] #2158561 (Kansas borrower)

[214] *See* CFPB Payday Rule, 82 Fed. Reg. at 54556-57.

[215] *See*, *e.g.*, Delvin Davis, *et al*., *Race Matters: The Concentration of Payday Lenders in African-American Communities in North Carolina*, Center for Responsible Lending (2005), http://www.responsiblelending.org/north-carolina/nc-payday/research-analysis/racematters/rr006-Race_Matters_Payday_in_NC-0305.pdf (finding that, even when controlling for a variety of other factors, African-American neighborhoods had three times as many payday lending stores per capita as white neighborhoods in North Carolina in 2005); Assaf Oron, *Easy Prey: Evidence for Race and Military Related Targeting in the Distribution of Payday Loan Branches in Washington State*, Department of Statistics, University of Washington (2006) (concluding based on a study of Washington State payday lenders that "payday businesses do intentionally target localities with a high percentage of African Americans.").

[216] Li, *et al*., *Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California,* Center for Responsible Lending (2009), http://www.responsiblelending.org/payday-lending/research-analysis/predatory-profiling.pdf; Brandon Coleman and Delvin Davis, *Perfect Storm: Payday Lenders Harm Florida Consumers Despite State Law*, Center for Responsible Lending at 7, Chart 2 (March 2016); Delvin Davis and Lisa Stifler, *Power Steering: Payday Lenders Targeting Vulnerable Michigan Communities*, Center for Responsible Lending (Aug. 2018), https://www.responsiblelending.org/research-publication/power-steering-payday-lenders-targeting-vulnerable-michigan-communities; Delvin Davis, *Mile High Money: Payday Stores Target Colorado Communities of Color*, Center for Responsible Lending (Aug. 2017; amended Feb. 2018),

payday borrowers come from communities of color, even after controlling for income.[217] The disparity in payday loans is especially significant given that African Americans and Latinos are much less likely to have checking accounts, typically a requirement for a payday loan, than whites.[218]

Online high-cost lenders may focus more on subprime credit score than geography. But the historical discrimination against communities of color is also reflected in credit scores.[219] Lenders that focus on subprime borrowers inevitably will disproportionately target borrowers of color. The algorithms and big data that "fintech" lenders use may also result in disparate impacts on these communities.[220]

Communities of color have historically been disproportionately left out of the traditional banking system, a disparity that persists today. About 17 percent of African American and 14 percent of Latino households are unbanked, compared to 3 percent of white households.[221] High-cost loans, with their high association with lost bank accounts,[222] drive borrowers out of the banking system and exacerbate this disparity. By sustaining and exacerbating an existing precarious financial situation, high-cost lending reinforces and magnifies existing income and wealth gaps—legacies of continuing discrimination—and perpetuates discrimination today.[223]

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https://www.responsiblelending.org/research-publication/mile-high-money-payday-stores-target-colorado-communities-color.

[217] CFPB Payday Rule, 82 Fed. Reg. at 54556. African-Americans are payday borrowers at three times the rate, and Hispanics at twice the rate, of non-Hispanic whites. 82 Fed. Reg. at 54556-57 (citing 2015 FDIC National Survey of Unbanked and Underbanked Households (calculations using custom data tool)). Vehicle title borrowers are also disproportionately African-American and Hispanic. *Id.*

[218] 2017 FDIC National Survey of Unbanked and Underbanked Households, at 3, *available at* https://www.economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Report.pdf.

[219] *See* Chi Chi Wu, *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination*, National Consumer Law Center (May 2016), https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf.

[220] *See* Testimony of Chi Chi Wu, National Consumer Law Center, Before the U.S. House Committee on Financial Services Task Force on Financial Technology Regarding "Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit" (July 25, 2019); Carol A. Evans, *Keeping Fintech Fair: Thinking about Fair Lending and UDAP* Risks, Consumer Compliance Outlook (2017), https://consumercomplianceoutlook.org/2017/second-issue/keeping-fintech-fair-thinking-about-fair-lending-and-udap-risks/.

[221] 2017 FDIC National Survey of Unbanked and Underbanked Households, at 3, *available at* https://www.economicinclusion.gov/downloads/2017_FDIC_Unbanked_HH_Survey_Report.pdf.

[222] CFPB found that about half of borrowers with online payday loans paid a nonsufficient funds (NSF) or overdraft fee. These borrowers paid an average of $185 in such fees, while 10% paid at least $432. It further found that 36% of borrowers with a bounced payday payment later had their checking accounts closed involuntarily by the bank. CFPB Online Payday Loan Payments at 3-4, 22 (April 2016).

[223] For further on the undersigned groups' concerns about the harm payday and vehicle title loans cause communities of color, and the efforts we have long made to stop that harm, see the sampling of references cited here: http://stopthedebttrap.org/wp-content/uploads/2014/11/PayDay-loans.7-2016.pdf; http://stopthedebttrap.org/wp-content/uploads/2015/08/lcchr_resolution_payday_deposit_advance_lending_12dec2015.pdf; http://stopthedebttrap.org/wp-content/uploads/2015/08/naacp_letter_obama_payday_15december2014.pdf; http://ourfinancialsecurity.org/2011/04/hilary-shelton-cfpb-testimony/;

H. The proposal is inconsistent with the agency's obligations under the Community Reinvestment Act.

The objective of the Community Reinvestment Act, which the OCC implements as to national banks, is to ensure that financial institutions meet the banking needs of the communities they are chartered to serve, including low- and moderate-income neighborhoods and individuals.[224] This legal obligation is considered a *quid pro quo* for the valuable public benefits financial institutions receive, including federal deposit insurance and access to favorably priced borrowing through the Federal Reserve's discount window.[225]

In contradiction to this obligation, the OCC now puts forth a proposal that would encourage banks to facilitate predatory lending. CRA requires that banks serve communities' credit needs.[226] But the data show that high-cost, unaffordable loans to financial distressed consumers do the opposite, leading to high-cost cycles of indebtedness that not only leave borrowers' needs unmet but leave them affirmatively worse off than before the lending began.

Through rent-a-bank schemes, banks rent out their privileges to entities that spread predatory lending to other communities far and wide. Indeed, through these schemes, banks are involved in scurrilous online lending that they would not do through their own channels or in their own communities. From what we can tell, Axos Bank, FinWise Bank, Republic Bank & Trust, and Capital Community Bank are not offering the loans that we have described in these comments through their limited number of branches or on their own websites. Yet through rent-a-bank lending, banks can profit through the operations of third parties that do not have CRA responsibilities. The proposed rule would only exacerbate this irresponsible lending that is at the core of what the CRA is designed to prevent.

While the OCC has proposed to revise the CRA regulations, the CRA proposal would not prevent this kind of predatory bank lending.

VI. The OCC fails to consider the risks the proposal poses to the safety and soundness of national banks, despite having long acknowledged those risks.

The OCC has historically taken very seriously the risks that rent-a-bank schemes pose for national banks. This proposal and other recent agency actions will increase the risks to national banks, yet the proposal does not even so much as mention risks to banks.

In the late 1990s and early 2000s, banks, including national banks and federal savings associations, entered into agreements with payday lenders to help the payday lenders evade state interest rate caps.

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http://www.responsiblelending.org/payday-lending/policy-legislation/states/Letter-JBond_Rendell-012306.pdf; https://nalcab.org/nalcab-new-pay-day-rule-step-forward-latino-consumers-businesses/.

[224] 12 U.S.C. 2901 *et seq*.

[225] Federal Reserve Board Chairman Ben S. Bernanke, "The Community Reinvestment Act: Its Evolution and New Challenges," Speech at the Community Affairs Research Conference, Washington, D.C. (March 30, 2007), *available at* http://www.federalreserve.gov/newsevents/speech/Bernanke20070330a.htm#f2.

[226] 12 U.S.C. 2901.

In 2000, the OCC (with the OTS) issued guidance on payday lending, flagging a number of risks to banks from these arrangements with payday lenders.[227] These included credit risk, should the non-bank not meet its terms of the contract;[228] transaction risk, should the non-bank misrepresent information;[229] and reputation risk associated with facilitating loans with terms that a non-bank could not make directly.[230] The guidance also expressed substantive concerns with the payday loan product, including flagging that "renewals without a reduction in the principal balance . . . are an indication that a loan has been made without a reasonable expectation of repayment at maturity."[231] And it cited the agency's general guidance on abusive lending, which identifies "loan flipping, i.e., frequent and multiple refinancings" as a characteristic of abusive lending.[232]

In 2002, the agency strongly condemned rent-a-bank schemes. As noted earlier, Comptroller John D. Hawke called the schemes "an abuse of the national charter,"[233] noting that "[t]he preemption privileges of national banks derive from the Constitution and are not a commodity that can be transferred for a fee to non-bank lenders."[234] He criticized the payday lending industry, which "has expressly promoted such a 'national bank strategy' as a way of evading state and local laws. Typically, these arrangements are originated by the payday lender, which attempts to clothe itself with the status of an 'agent' of the national bank. Yet the predominant economic interest in the typical arrangement belongs to the payday lender, not the bank."[235]

Hawke highlighted the safety and soundness risks these schemes posed: "[They are] *highly conducive to the creation of safety and soundness problems* at the bank, which may not have the capacity to manage effectively a multistate loan origination operation that is in reality the business of the payday lender."[236] He noted a recent enforcement action against a "small national bank that dramatically demonstrated its

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[227] OCC Advisory Letter No. AL 2000-10 (Nov. 27, 2000), https://occ.gov/news-issuances/advisory-letters/2000/advisory-letter-2000-10.pdf.

[228] *Id.* ("Contractual agreements with third parties that originate, purchase, or service payday loans may increase the bank's credit risk due to the third party's inability or unwillingness to meet the terms of the contract . . .").

[229] *Id.* ("Because payday loans may be underwritten off-site, there is the risk that agents or employees may misrepresent information about the loans or increase credit risk by failing to adhere to established underwriting guidelines.")

[230] *Id.* ("Banks face increased reputation risk when they enter into arrangements with third parties to offer payday loans with fees, interest rates, or other terms that could not be offered by the third party directly.")

[231] *Id.*

[232] *Id.* (citing OCC AL 2000-7 on Abusive Lending Practices). *See also* OCC AL 2002-3 on Predatory and Abusive Lending Practices.

[233] Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Women in Housing and Finance at 10 (Feb. 12, 2002), https://www.occ.treas.gov/news-issuances/speeches/2002/pub-speech-2002-10.pdf.

[234] https://www.occ.treas.gov/news-issuances/news-releases/2002/nr-occ-2002-10.html.

[235] Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Women in Housing and Finance at 10 (Washington, D.C. Feb. 12, 2002), https://www.occ.treas.gov/news-issuances/speeches/2002/pub-speech-2002-10.pdf.

[236] *Id.*

inability to manage such a relationship in a safe and sound manner."[237]

The OCC's 2003 annual report cites enforcement actions against three national banks that were partnering with storefront payday lenders, terminating those partnerships in each case.[238] In one enforcement action, the Comptroller noted that the OCC is "particularly concerned where an underlying purpose of the relationship is to afford the vendor an escape from state and local laws."[239]

The risks highlighted by the OCC in the early 2000s remain today. In fact, the reputation risk by bank involvement in high-cost lending is likely only higher than it was in the early 2000s. Since the early 2000s, as noted in section V above, the harms of high-cost lending, both short-term loans and longer-term loans, have become more fully documented and known. Several states have had statewide ballot initiatives that capped interest rates at 36% APR or less. And direct bank involvement in payday lending by a handful of banks, until 2013 guidance that generally led to its end,[240] was met with sweeping public condemnation from virtually every sphere—the military community,[241] community organizations,[242] civil

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[237] Remarks by John D. Hawke, Jr., Comptroller of the Currency, Before the Women in Housing and Finance at 10 (Washington, D.C. Feb. 12, 2002), https://www.occ.treas.gov/news-issuances/speeches/2002/pub-speech-2002-10.pdf.

[238] OCC, Annual Report, Fiscal Year 2003, p. 17. *See also*, Jean Ann Fox, "Unsafe and Unsound: Payday Lenders Hide Behind FDIC Bank Charters to Peddle Usury," Consumer Federation of America, March 30, 2004 at 17

[239] https://www.occ.gov/news-issuances/news-releases/2003/nr-occ-2003-3.html. The Office of Thrift Supervision also issued an advisory, noting "Associations should not 'lease' their charter out to nonthrift entities through an agreement that allows the nonthrift entity to circumvent state and local law." OTS Bulletin 82, Aug. 18, 2003, at 8.

[240] The OCC rescinded that guidance in 2017.

[241] *See*, *e.g.*, Testimony of Steve Abbot, former President of the Navy-Marine Corps Relief Society, Before the U.S. Committee on Banking, Housing and Urban Affairs (Nov. 3, 2011) (noting bank payday loans among the "most egregious trends"); Comments of Michael Archer, Director of Military Legal Assistance, Marine Corps Installations East, to CFPB (April 4, 2012): "Most ominously, a few large banks have gotten into the business of payday loans through the artifice of calling the loans open ended credit," http://www.regulations.gov/#!documentDetail;D=CFPB-2012-0009-0056.

[242] Hundreds of groups urged the prudential regulators to stop banks from trapping borrowers in payday loans. Letters from approximately 250 groups to FDIC, OCC, FRB and CFPB, March 13, 2013 (http://ourfinancialsecurity.org/blogs/wp-content/ourfinancialsecurity.org/uploads/2013/03/Bank-Payday-Sign-On-Letter-3-13-13-Final.pdf) and February 22, 2012 (http://www.responsiblelending.org/payday-lending/policy-legislation/regulators/Dear-Regulators.pdf). Thousands of individuals and many community groups filed comments with the OCC urging that Wells Fargo's Community Reinvestment Act rating be negatively impacted because it makes payday loans, including CRL and NCLC (http://www.responsiblelending.org/payday-lending/policy-legislation/regulators/cra-comment_wells-nov-29-2012_final.pdf).

rights leaders,[243] faith leaders,[244] socially responsible investors,[245] state legislators,[246] and members of Congress.[247] Moreover, the rise of online and social media make it faster and easier to garner outrage at a bank that is facilitating predatory lending.

In addition, credit risk may be even greater today, as banks may retain some ongoing interest in the loans (though nowhere near the predominant one) as lenders try out more sophisticated schemes to skirt regulators or courts.

The OCC has not updated its rent-a-bank guidances to focus on the installment, line-of-credit and second mortgage rent-a-bank lending happening today. While OCC banks, to our knowledge, have so far stayed out of predatory consumer rent-a-bank lending, the OCC has directly supported a predatory small business rent-a-bank lender and the OCC has been unable or unwilling to stop Axos Bank from facilitating predatory loans. The signals the OCC is sending, and the direct aid of the proposed rule, will

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[243] *See*, *e.g.*, Letter from Benjamin Todd Jealous, President and Chief Executive Officer, NAACP, to FDIC, OCC, FRB, and CFPB opposing bank payday lending (Feb. 21, 2013), http://www.responsiblelending.org/payday-lending/policy-legislation/regulators/NAACP-redatory-Pay-Day-Loans-to-regulators-BTJ.pdf.

[244] *See*, *e.g.*, Elaina Ramsey, Faith Groups Take On Payday Lenders, Sojourners, https://sojo.net/magazine/stub/faith-groups-take-payday-lenders (discussing a National Day of Action among faith leaders in early 2013 to address payday lending). In connection with this National Day of Action, Rev. DeForest B. Soaries, jointly with other nationally prominent African American ministers, called for "an end to enslavement to both payday lenders and the banks now offering equally dangerous products" in *An Emancipation Proclamation from Payday Lending.* Center for Responsible Lending, *Bank Payday Lending: Overview of Media Coverage and Public Concerns*, CRL Issue Brief, March 7, 2013, http://www.responsiblelending.org/payday-lending/tools-resources/BPD-media-coverage-3-7-13.pdf

[245] For proxy year 2013, investors filed shareholder resolutions with the four largest banks making payday loans expressing concern about the product and requesting data, which none of the banks agreed to provide. Wells Fargo (https://trilliuminvest.com/shareholder-proposal/payday-lending-wells-fargo-2013/); Fifth Third Bank (http://www.trilliuminvest.com/resolutions/payday-lending-fifth-third-bancorp-2013/); U.S. Bank; (https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2013/dominisocial012513-14a8.pdf); and Regions (https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2013/congregationsisters011413-14a8.pdf).

[246] *See*, *e.g.*, "Legislative Black Caucus slams Regions Bank over payday-style loans," Raleigh News and Observer "Under the Dome," Oct. 11, 2012, http://www.cashcowadvances.com/paydayblog/legislative-black-caucus-slams-regions-bank-over-payday-style-loans.html (quoting letter from N.C. Senator Floyd McKissick, Jr., chairman of the N.C. Legislative Black Caucus, to Regions Bank, which stated: "We are deeply concerned about recent reports of Regions Bank offering its 'Ready Advance' payday loans in North Carolina . . . . High-cost, short-term balloon loans like these sharply increase the financial distress of families under economic strain"); Letter from Arizona Democratic Caucus to the prudential banking regulators, February 2012 (noting that Arizona "has spent countless state resources to study and understand the effects of [payday lending], and ultimately outlaw payday lending entirely" and calling on federal regulators to "take immediate action so that meaningful reforms taking place in Arizona and throughout the country in the name of consumer protection will not be undermined.").

[247] In January 2013, several Senators wrote the FRB, OCC, and FDIC urging action to address bank payday lending (http://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-calls-on-regulators-to-act-to-stop-abusive-bank-payday-lending). In April 2013, House members did the same. For further documentation of opposition to bank payday lending, *see* Center for Responsible Lending, *Bank Payday Lending: Overview of Media Coverage and Public Concerns* at 10, CRL Issue Brief, March 7, 2013, http://www.responsiblelending.org/payday-lending/tools-resources/BPD-media-coverage-3-7-13.pdf.

pose safety risks to OCC-supervised banks and thrifts that the OCC has not acknowledged or considered.

VII. The OCC fails to consider the proposal's impact on market participants that comply with state law.

The OCC also has failed to analyze the proposed rule's impact on other market participants. Such analysis might reveal anti-competitive impacts on other non-bank lenders—those lenders that obtain state licenses and comply with state interest rate limits. Such lenders might face greater difficulty in raising capital if forced to compete for investors with growing numbers of non-bank lenders who can offer outsized returns by exceeding state interest rate limits. The OCC has not analyzed the extent to which eliminating rent-a-bank lending would result in a more level playing field on which state-law compliant lenders could compete for investors to fund their loans, thereby increasing access to credit at non-usurious rates. This would better reflect the Congressional purpose in enacting Section 85 in the first place, namely to prevent the use of interest rate limits to disadvantage national banks over state-licensed lenders. Today, Section 85's "mission creep" threatens the reverse.

VIII. Conclusion

For all of the reasons discussed above, the undersigned groups urge the OCC to withdraw its proposal. The OCC lacks the authority to issue the proposal, the proposal is unreasoned, and it is likely to open the floodgates to predatory lending, resulting in severe harm to consumers across the country. Thank you for your consideration.

Yours truly,

Center for Responsible Lending
National Consumer Law Center (on behalf of its low income clients)
Americans for Financial Reform Education Fund
Consumer Federation of America
The Leadership Conference on Civil and Human Rights
NAACP
National Association for Latino Community Asset Builders
Public Citizen
United States Public Interest Group (U.S. PIRG)

Attachments: Appendix A: NCLC Fact Sheet: Stop Payday Lenders' Rent-a-Bank Schemes

Appendix B: Individual Borrower Experiences with Payday and Car Title Loans (Short- and Longer-Term Loans)

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Appendix A

Fact Sheet: *Stop Payday Lenders' Rent-a-Bank Schemes*
National Consumer Law Center

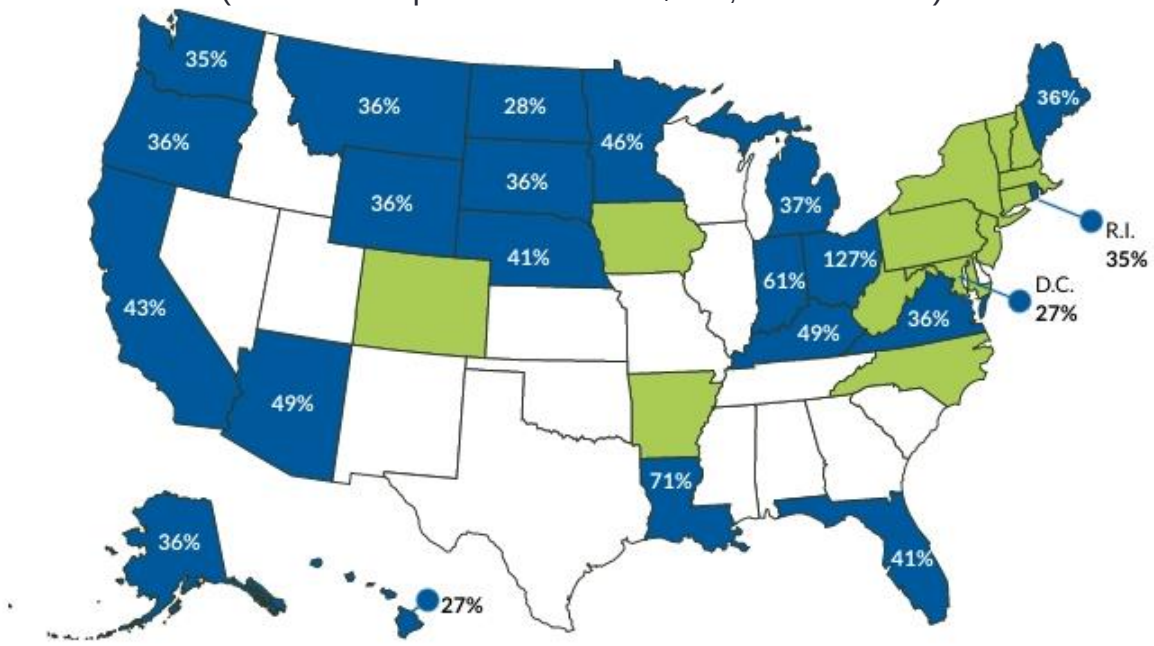
NCLC
National Consumer Law Center

STOP PAYDAY LENDERS' RENT-A-BANK SCHEMES!

Payday lenders are starting to make **usurious loans up to 160% in states where those rates are illegal** by using banks, which are not subject to state rate caps, as a fig leaf**.** Banks have little to do with the loans, which they immediately sell. Bank regulators shut down these schemes in the early 2000s, but two state-chartered banks, FinWise Bank and Republic Bank and Trust, both regulated by the FDIC, are again helping payday lenders evade the law in 28 states & DC.

OppLoans + FinWise Bank = 160% APR

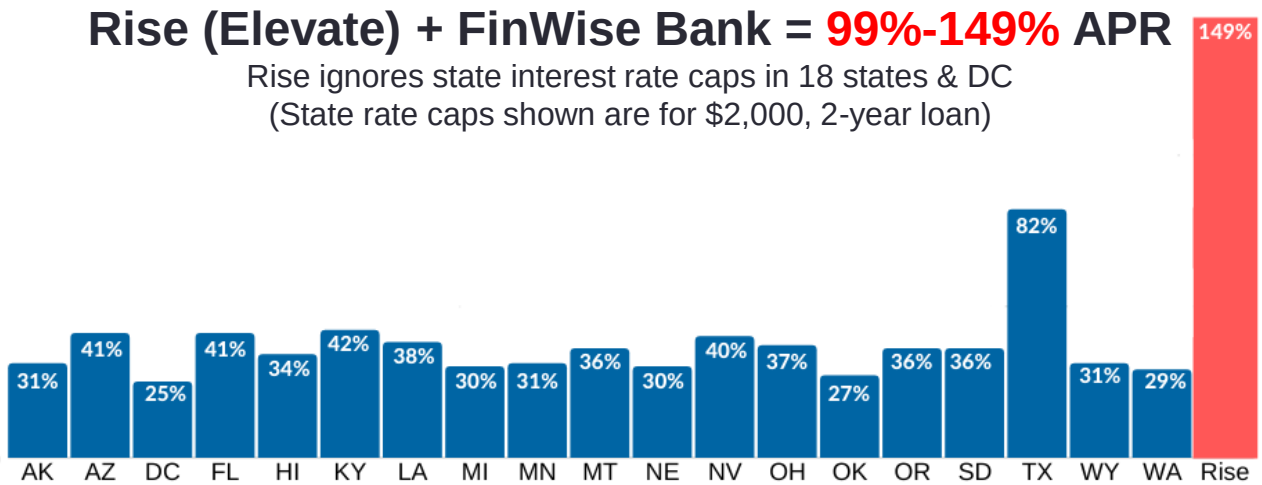
OppLoans ignores the interest rate cap laws of 24 states & DC
(State rate caps are shown for $500, 9-month loan)



- **OppLoans uses a rent-a-bank scheme in 24 states and DC to evade state rate caps.**
- States that allow OppLoans' 160% APR loans.
- OppLoans does not lend in these states, which have a history of enforcing rate caps.

Rise (Elevate) + FinWise Bank = 99%-149% APR

Rise ignores state interest rate caps in 18 states & DC
(State rate caps shown are for $2,000, 2-year loan)



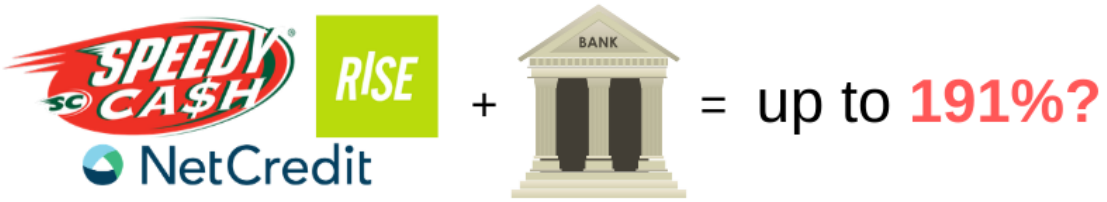
Elastic (Elevate) + Republic Bank & Trust = 109%

Elastic uses a rent-a-bank scheme to offer lines of credit at rates above those allowed in many states. Elastic does not disclose an APR to consumers, but its SEC filing gives an example of a $2,500 advance with an effective **APR of 109%.** Actual APRs vary depending on the amount advanced and repayment schedule. The Elastic line of credit is offered in 14 states and DC where rate caps are far lower for lines of credit.

Maximum APR (with fees) for $2,000 advance repaid over 2 years			
Alaska	31%	Minnesota	36%
Arizona	41%	Montana	36%
Arkansas	17%	Nebraska	30%
D.C.	25%	Nevada	42%
Florida	34%	Oregon	36%
Kentucky	35%	South Dakota	31%
Louisiana	39%	Texas	28%
Maryland	33%		

Coming soon to California

Speedy Cash (Curo), NetCredit (Enova), and Rise (Elevate) have announced plans to their investors to **use rent-a-bank schemes to evade a new California law** going into effect on January 1, 2020 that will ban their current loans above $2,500 that go up to 135%-191% APR.



Federal and state legislators, regulators of both banks and payday lenders, and enforcement agencies must all do their part to stop payday lenders from evading state interest rate caps through rent-a-bank schemes.

November 2019

Appendix B
Individual Borrower Experiences with Payday and Car Title Loans
(Short- and Longer-Term Loans)

Introduction

Consumers across the country are devastated by the impacts of payday, car title, and other high-cost loans. The stories below highlight real customers' experiences with predatory lending and illustrate the harms associated with these loans. Stories were collected from a variety of sources. The Center for Responsible Lending has an established relationship with some of the victims who recounted their stories. Other stories were obtained by Freedom of Information Requests for complaints and original loan contracts that were sent to the consumer protection agencies of certain states. Borrowers' experiences were also derived from news articles and other media sources.

Coding

Following each story, one or more code is applied, indicating the following:

Type of harm experienced:

"**1**" Borrower endures long loan sequences, including frequent loan renewals, loan flipping, or long cycles of taking out one loan to pay another.

"**2**" Borrower experiences delinquency and/or default, including lender and bank fees triggered by the loan itself, aggressive debt collection, and loss of a vehicle.

"**3**" Borrower suffers collateral harms from making unaffordable payments, including defaulting on other major financial obligations or basic living expenses.

Other loan features:

"**LT**" Long-term loan

"**CT**" Car title loan

"**SL**" Small loan with principal of $200 or less.

Asterisks following an annual percentage rate (APR) indicate approximate APR as calculated by CRL staff, based on the information provided by the borrower.

Borrower Experiences

1. Arthur, a 69-year-old warehouse worker and grandfather of seven, started with a loan of $200 from Advance America. The loan eventually increased to $300. Every payday, rather than defaulting or coming up short on bill money, Arthur went into the Advance America store and paid a fee of $52.50 so Advance America would not deposit his check for the full loan amount. Advance America flipped the loan over a hundred times, until his total interest paid was an

estimated $5,000. The clerks knew him by name and often had his paperwork ready for him when he came in. Payday lenders have a name for consumers they see every payday: "26ers"—because they pay up every two weeks, 26 times a year. In Arthur's case, they saw him once a month rather than every two weeks, but only because his repayment came from his monthly Social Security check.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(1, 3, SL)

2. Mary is a single mother who has owned her one-story brick house in New Castle, Delaware for nearly a decade. After falling behind on the mortgage payments, she applied for and received a 135% APR payday installment loan from California-based, LoanMe. Mary, who works part-time as a dietary aid and receives disability payments, immediately put the money toward the mortgage and repaid the loan in the first month to avoid paying high interest, she said. It still wasn't enough to make her current on the mortgage, so she applied for a second loan in the spring. This time, she was approved for $3,100 with an APR of 135%. She has up to 47 months to repay the loan – meaning that she will pay approximately $16,500 in principal, fees and interest if it takes her the entire time. "I make monthly payments to make sure they are not coming after me, but with interest that won't do much," she said. "Now I'm left with this bill, plus my mortgage. I'm in worse shape now."
Source: http://www.delawareonline.com/story/news/local/2016/08/26/lawmakers-eye-caps-changing-payday-lending-industry/87632062/
(1, 2, 3, LT)

3. In September 2011, Pauline, a 96-year old widow living on Social Security income and a small pension each month, received a $450 payday loan from Allied Cash Advance with an APR of 360%. To circumvent the Virginia's payday lending law, the company framed its product as an open-end credit agreement rather than a payday loan. Although she made payments to Allied totaling $597, her balance remained at $776.20. Company representatives threatened Pauline numerous times, telling her they would deal "harshly" with her for failure to pay and falsely asserting that failure to pay the loan constituted fraud and could result in jail time. Pauline believed the criminal threats were real and suffered significant distress and anxiety as a result.
Source: *Pauline Honey v. Allied Title Lending LLC*, 12-00045, Filed 9/14/12, United States District Court for the Western District of Virginia
(2, 3, LT, OE)

4. Virginia regulations for payday and car title loans. To avoid these regulations, payday lenders encouraged consumers to enter into open-end credit agreements. Allied Title Lending offers car title loans and open-end credit agreements at the same locations where the company (previously called Allied Cash) had operated as a payday lender. James and his wife, who live solely on their Social Security income, fell on difficult times financially and entered into a "Motor Vehicle Equity Line of Credit Agreement" with Allied Title Lending to assist with their struggles. James agreed to borrow $2,160 at an annual interest rate of 182.5%. Although James has never made a late payment in the five years that Allied Title Lending has continued to collect on the contract, the company has threatened James the entire time that if his payments were late, his vehicle would be repossessed. The company repeatedly tricked James into collecting much more than what was actually due under the contract by telling him he could pay off the loan more quickly if he paid more than the minimum payment each month. Allied Title Lending categorized

the loan as an open-end line of credit, but no money in excess of the original loan amount was ever made available to James, and he has paid back more than $16,000 on his $2,160 loan.
Source: *James F. Lam v. Allied Title Lending, LLC*, United States District Court for the Eastern District of Virginia
(1, 2, LT, OE)

5. Christopher received a $500 payday loan from CashNetUSA, with a total repayment of $625. He had to roll the loan over to the next month five subsequent times, meaning that he paid a $125 fee each time with none of the fee going toward paying off the principal. As a result, he paid $1250 total on his $625 loan. A few months later, CashNetUSA told Christopher they had increased his credit line to $1,500. He obtained the $1,500 loan with a total repayment of $1,875. When payment was due, Christopher did not have the money to repay the loan and contacted CashNetUSA prior to the due date to arrange a payment plan. The company debited a $375 rollover fee from his checking account and then took the entire $1,500 loan amount from his account anyway. Christopher did not have enough money in his account to pay the loan, so he accrued $934.82 in NSF fees from his bank and was unable to pay any of his other bills, including child support and rent. In order to prevent eviction, he took out another payday loan from CashNetUSA for $1,500 to pay his rent, further perpetuating the cycle of debt.
Source: Florida Attorney General's Office, 2007
(1, 2, 3)

6. Sandra, a successful professional, worked diligently to keep up with her bills. In a tough time, she turned to payday lending. After several rollovers, Sandra's first loan was due in full. She couldn't pay it off, so she took a loan from a second lender. Frantically trying to manage her bills, she eventually found herself with loans from six payday lenders including Advance America, Check Into Cash, Check 'n Go, Urgent Money Express and two on-line lenders. She paid over $600 per month in fees, none going to pay down her debt. After writing checks to payday lenders totaling $9,200, she was evicted and her car was repossessed. "At the time it seems like the way out, but this is not a quick fix. It's like a ton of bricks," said Sandra.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(2, 3)

7. Edith, an Asheville, North Carolina single mother, cut down on her family's groceries, stopped driving her car, and kept her lights off to save electricity as she scrambled to pay the fees on her payday loans. She took out her first $300 payday loan, and then a second and third, trying to repay the first. Edith borrowed a total of $900, received $765 in cash and paid $135 in interest ($45 x 3) at the time she borrowed. She continued to pay $270 in interest every month ($135 twice a month) for well over a year because she could not afford to repay the $900 principal owed. Though she only received cash advances totaling $765, during the next year, she paid over $3,500 in fees alone, and still owed the original $900.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(2, 3)

8. Vanessa obtained a $1,455 payday installment loan from The Cash Store. She was to make twelve payments over six months of $357 each, paying a total of $2,832 in finance charges, reflecting an APR of 581%. Although she certified that the payment on principal and interest did

not exceed 25% of her income, Vanessa could not keep up with her loan in addition to her ongoing monthly expenses. She paid $2,100 over four months for the loan but still owed $1,600—more than the original principal amount. She was forced to close her bank account after incurring too many overdraft fees, and she has worse credit than when she obtained the loan. She is still facing a legal debt collection action. Vanessa has testified before the Texas Legislature to tell her story, saying, "The short of it: I, like so many Texans who got payday loans, was sunk."
Source: Loan contract on file with CRL
(1, 2, 3, LT)

9. Sherry was a struggling, working single mother who made 15 monthly payments totaling approximately $3,000 on the $1,000 payday installment loan she obtained from Western Sky. The loan required an automatic draft of 24 monthly payments of $198, which carried an APR of 233%. Sherry could not afford the payments, but continued to make them despite falling further behind on her mortgage and other bills and incurring overdraft fees from her bank. When she was offered a trial loan modification to resolve her mortgage delinquency, she attempted to stop the automatic electronic payments being made to Western Sky but was initially unsuccessful. As a result, her first trial payment on her mortgage modification was returned for insufficient funds and the mortgage company cancelled the modification. Although she initially took out the loan to improve her financial situation, it deepened her financial distress and even caused her to lose her initial chance to save her home from foreclosure.
Source: Loan contract on file with CRL
(1, 2, 3, LT)

10. Oscar Wellito took out a $100 loan American Cash Loans, LLC after he went bankrupt. He was supporting school-aged children while trying to service debt obligations with two other small loan companies. He earned about $9 an hour at a Safeway grocery store, which was not enough money to make ends meet, yet too much money to qualify for public assistance. "That's why," he testified, "I had no choice of getting these loans, to feed my kids, to live from one paycheck to another paycheck." He needed money for groceries, gas, laundry soap, and "whatever we need to survive from one payday to another payday." His loan carried a 1,147.14% APR and required repayment in twenty-six biweekly installments of $40.16 with a final payment of $55.34. Thus, the $100 loan carried a total finance charge of $999.71.
Source: *State ex rel. King v. B & B Investment Group, Inc.*, 2014-NMSC-024, 329 P.3d 658
(2, LT, SL)

11. Delores, a 78-year-old retiree, borrowed $730 at an APR of 300% from Wisconsin Auto Title Loans when she needed new tires for her 1992 Buick Park Avenue. The company required her to turn over the spare key and title to her vehicle. A month later on the due date, her loan had grown to $1,027 and she couldn't afford to pay it. The amount due was more than her entire Social Security check. Because she couldn't imagine giving up her vehicle, she began to borrow money from other sources just to pay the interest on the car title loan, never making a dent in the principal. She eventually sold her car for $1,000 to help pay the debt.
Source: Yeoman, Barry. "Sudden Debt." AARP Magazine September & October 2006: 108-113, 128. Print.
(2, 3, CT)

12. Jane, a 79-year-old woman, obtained a $380 payday loan from SpeedyCash with a 259% APR to help pay for her daughter's cancer medication. She earned $922 in social security benefits and paid a rent of $430, the lender did not ask her about her ability to repay the loan and simply required proof of income. Despite making 16 monthly payments of between $65 and $95, Jane still owes $500 on the loan. She has never made a late payment although she owes other bills because that would allow the lender to take the funds straight from her account. She reasons, "I would rather not pay my light bill than for the [payday loan company] to take all the money I need to pay my rent."
    Source: Video on file with Texas Appleseed.
    (3)

13. Lauren received a car title loan from TitleMax for $817.19, with an initial APR of 66.02%. She was charged monthly for automobile insurance coverage, which the company claimed was voluntary. However, TitleMax required certain stipulations if customers wanted to use their own auto insurance, including paying the policy through the maturity date of the transaction in advance, listing the company as a lien holder on the insurance policy, and carrying a deductible of no more than $500. Lauren could not afford to pay her insurance premium in advance, and as a result had to pay TitleMax monthly for auto insurance in addition to the loan principal and interest. As she could not afford to pay off her loan in full each month, Lauren was forced to refinance the loan 13 times. Each renewal resulted in an increase in the monthly auto insurance premium she was charged by TitleMax. She eventually surrendered her 2004 Chevy van to the company because she could not afford to repair it. At the time of surrender, her balance on the loan had ballooned to $3,883.35 and she had been charged $4,128.55 in fees and other charges over the course of the loan.
    Source: Florida Office of Financial Regulation, 2014
    (1, 2, 3, CT)

14. Fearing she and her family would soon lose their home, Jessica obtained a $1,900 car title loan from Instaloan in October of 2013. It was marketed as a no-credit-check collateral loan, but she did not understand what that meant. When she asked the company representative, he told her that it was a car title loan but he wasn't allowed to tell customers that. Jessica was told that she was required to purchase their auto insurance even though the contract terms indicated the insurance was voluntary. Over the next 13 months, she paid more than $4,000 for her $1,900 loan, and none of her payments have been applied toward the principal of her loan. Recently, she moved from Florida to Arizona. She called Instaloan to ask for their address so she could send her payment via mail and was told she could not mail a payment because the company needed to receive the payment and a signature on the loan renewal on the same day. Instaloan told her the only option was to contact another title loan company and have them buy out the loan at the payoff amount. The company representative recommended that she contact TitleMax, which she realized was the same company as Instaloan. No one from TitleMax has returned Jessica's phone calls, and she is worried that her vehicle will be taken.
    Source: Florida Office of Financial Regulation, 2014
    (1, 2, CT)

15. Shirley, an elderly woman on a fixed income, received a car title loan from TitleMax for $2,453.29. She did not understand that the loan had to be repaid in one lump sum or it would be flipped each month and she would accrue new finance charges. Because she was unable to pay the full amount of the loan at once, TitleMax flipped the loan six times. Despite the fact that

Shirley paid over twice the principal amount of the loan to the company, including $1326.01 for the company's auto insurance, TitleMax still repossessed her vehicle when she was unable to make a monthly payment.
Source: Florida Office of Financial Regulation, 2014
(1, 2, 3, CT)

16. James, a 67-year-old on a fixed income, obtained a $500 car title loan from TitleMax in May 2013. He had hoped to be able to pay the loan off in three months; however, he has paid $957 over the past year and still owes $603.98 – over $100 more than the original loan principal. His loan has been flipped 14 times, and he does not understand why he is also charged a monthly auto insurance premium. After paying almost twice the original principal amount, James is now in danger of losing his vehicle as TitleMax claims he is 15 days late in making a payment.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

17. Deborah received a $2,000 car title loan from TitleMax in July 2014. Her loan has been flipped ten times and despite paying over $4,000 to the company, she still owes $1,785.73 – almost as much as the original amount of her loan. Over the course of the year that she's been paying on her loan, the APR has ranged from 43.33% to 46.48% and she has been forced to pay for costly auto insurance that she does not want and did not understand she would have to pay at the time she signed the contract. Representatives from the company have called her place of employment several times a day, putting her job at risk. When she was late on her payment to TitleMax, they sent a tow truck to her place of employment to repossess her vehicle.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

18. Sam received a $604.31 car title loan from TitleMax in July 2013, which carried an APR of 78.7%. His loan was flipped three times and he was forced to pay for auto insurance that he did not need or want. Although the loan contract indicated that the company's auto insurance was voluntary, he was told that his existing car insurance did not meet the company's requirements. The loan contract stated that the policy through TitleMax does not insure the customer against liability for bodily injury or property damage caused to others and does not suffice under Florida's law requiring all resident motorists to have auto insurance for personal injury protection and property damage. As a result, Sam paid $246.17 over four months for TitleMax's car insurance, in addition to the coverage he paid for under his existing insurance policy. Due to the high interest rate and unwanted insurance products, over four months Sam paid a total of $1,186.00 for a $604 loan.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

19. Betty was 78 years old and drove very infrequently when she decided to pursue a car title loan for $2,217.29 from TitleMax. The company required her to buy their auto insurance unless her current policy met their criteria. After realizing that she had paid $348.48 over three months for their additional auto insurance that she did not want or need, she decided to decline TitleMax's insurance and use her current coverage with Geico instead. She believed her insurance met TitleMax's requirements, but she received a call from the company telling her that she had to list them as the payee within fifteen minutes or be forced to pay $175.00 per month for their

policy. She believed she was being taken advantage of by TitleMax because she was elderly and did not understand what she was signing.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

20. Derek received a car title loan from TitleMax for $1,541.06 in May 2014. After paying on his loan for three months, his fourth payment was late. As a result, the company required that he take out an auto insurance policy even though he already had full insurance coverage through another provider and had listed TitleMax as the payee on that policy. He gave them documented proof of his current insurance policy but was told that he must purchase TitleMax's additional insurance although the form he was required to sign stated that the insurance was voluntary. When he attempted to make his payment of $98.00, Derek was told that he owed an additional $141.82 for the additional insurance. Derek could not afford the increased monthly payment and TitleMax is now threatening to repossess his car.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

21. Diego received a car title loan from TitleMax for $654.77 with an APR of 76.4% in September 2013. Over the next year, his loan was flipped eleven times. During this time, he was charged $334.30 extra for auto insurance financed through the company. Although he had a current auto insurance policy, TitleMax required that his policy be current through and including the next payment date. However, Diego found that the company would not accept his insurance policy because he paid his insurance premium each month on the day after his loan payment was due and therefore could not provide proof of insurance until the next business day after he had already renewed the loan.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

22. Phyllis received a car title loan from TitleMax for $643.73 that carried an APR as high as 115.6%. She has paid $2,190 on the loan over 18 months and still owes $261.64. Despite paying over three times the principal amount of the loan, the company has repossessed her vehicle twice, forcing her to pay an additional $400 each time to receive access to her vehicle.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

23. Jane received a car title loan from TitleMax in November 2013 for $4,335.86. Despite having paid $3,245 over the past eight months, the company says she still owes $3,686.73. She has paid $272.50 for auto insurance through TitleMax even though she already possesses a current auto insurance policy.
Source: Florida Office of Financial Regulation, 2014
(2, CT)

24. After her husband passed away, Rachel was short on cash and decided to obtain a car title loan from TitleMax in August 2014 for $3,000. After paying on the loan for a year, including over $2,000 in auto insurance she did not need or want, she had to return to her previous residence in Wisconsin to handle an issue with her husband's estate. When she called TitleMax to let them know she'd be sending her payment by money order, she was told that she had to make all payments in person because she was also required to renew the loan at the time of payment. A

company representative even told her that TitleMax sends an employee to the hospital to obtain payment and a signature on the loan renewal if a customer is hospitalized during the time a payment is due. She called several times after that to again see if she could make a payment over the phone or have a relative make a payment in person, but the company refused. Because she could not return to Florida to make a payment, TitleMax is in the process of repossessing Rachel's vehicle.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

25. Dan received a car title loan from TitleMax in October 2014 for $1,500, with an APR ranging from 47.2% to 51.9%. Over the past year, he has paid a total of $2,371.54, yet he still owes $1,415.53—almost the entire original loan amount. Although Dan informed the company that he had AAA Plus coverage and did not want to purchase any additional towing services, he was told he must pay $12.50 per month for a "tow package." In addition, he has paid a total of $1,357.80 in car insurance to the company.
Source: Florida Office of Financial Regulation, 2014
(1, 2, CT)

26. Shortly after a heart attack forced her to retire, Sandra was short on cash. Her ex-husband had fallen behind on his alimony payments, and she didn't receive enough income from her monthly disability checks to cover all her bills. She received a payday loan for $150 from First Southern Cash Advance to pay her overdue telephone bill. The next month, her husband still had not paid the alimony, so she was unable to repay the loan. As a result, she borrowed money from another payday lender, then from a third and fourth just to attempt to pay off one loan and the interest. By the time she sought help from a legal aid attorney, Sandra was forced to give up her apartment and move into a trailer in her brother's backyard.
Source: Yeoman, Barry. "Sudden Debt." AARP Magazine September & October 2006: 108-113, 128. Print.
(2, 3, SL)

27. Amy Keaton of Spring Hill, MO said during a public comment session that desperation led her to take out a $200 payday loan a year ago. "You get into that mindset when you are struggling that tomorrow will take care of tomorrow," Keaton said. "So I took out the loan, even though I knew that it wasn't a very good idea." Keaton said the lenders expected a payment of $297, and in return she would receive $250 for her bills. The amount she actually ended up paying escalated. "I was paying almost $100 a month just to take my own paycheck home," she said. Keaton will have her debt paid off this September with the help of Catholic Charities.
Source: http://www.kansascity.com/news/business/article81380962.html
(1, 2, SL)

28. Terrence Wise, who supports tighter regulation of the industry**,** said a $150 payday loan ended up costing him $400. "They were calling my job and harassing me at work," Wise said. "My employer told me I could be disciplined if they didn't stop harassing me. I had papers brought to my home serving me to court. And all of these things, they make you feel degraded."
Source: http://kcur.org/post/hundreds-rally-downtown-public-hearing-proposed-payday-loan-rules#stream/0
(2, SL)

29. Maryann Olson's monthly Social Security check wasn't enough to cover the cost of orthopedic shoes that she desperately needed so she turned to a payday lender. However, her $150 loan quickly turned into $1,900 in debt.
Source:http://www.oregonlive.com/opinion/index.ssf/2015/03/congress_must_crack_down_on_pa.html
(2, SL)

30. "We got a payday loan of about $200," Lara said. By the time payday came around the lender wanted $300. They were able to pay back the $300, but they came up short on their next payment. "So we took out another loan," Lara explained. And just like that, the trap door slammed down. "It's just so easy to get. So easy! You just bring a paystub down and you tell them how much you need," Lara said. "I kid you not, we did that dance for close to six months," Lara said. "It was horrible. Just unbelievably horrible." Finally, Lara had to beg her parents to help get them out of the cycle for good.
Source: http://www.tcdailyplanet.net/new-guidelines-nonprofits-help-curtail-predatory-payday-loans-in-minnesota/
(1, 2, SL)

31. Diana, a 71-year-old who lived on her Social Security income of $1,100 per month, took out a car title installment loan from Cash America for $1,533. The loan carried an APR of 98%, and she was required to make 13 payments of $195 each. $551 of the loan went to pay off an old lien. Diana subsequently obtained a Cash Plus 0% APR single-payment payday loan for $225 while her car title loan was outstanding. Cash Plus pursued criminal charges for "theft by check", which is essentially Texas's bad check law. There is now a warrant outstanding for Diana's arrest.
Source: Loan contracts on file with CRL
(2, 3, CT, LT)

32. John lived paycheck to paycheck. In December 2013, he took out a car title installment loan with Loan Max for $1,715, requiring 12 monthly payments of $391 each, totaling $2,969 (243% APR). John struggled to make the first two payments and was struggling to make the third. Two months later, in February 2014, he took out a $700 payday installment loan from Check N Go to stay current on his car title loan. The payday loan required 11 biweekly payments of $110 each (247% APR). Of the first payment of $110, only $14 went toward the loan principal. John defaulted on that loan after one payment and was incurring substantial overdraft fees as the bank threatened to close his account. He has no hope of keeping up with his loan payments, much less escaping the debt trap. The extreme stress prevents him from sleeping, and he likely will be forced into bankruptcy.
Source: Loan Max and Check N Go loan contracts on file with CRL
(1, 2, LT, CT)

33. In 2009, Pamela received a payday loan from Cash Transfer Centers for $960 on a two-week period, plus a finance charge of $259.20. The loan required payments of $160 in order to be paid off. Once Pamela saw that her monthly payments stayed the same while the interest on the loan continued to grow, she knew there was something wrong.
Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
(2)

34. In 2010, Anne received a $1,000 payday loan, which required repayment every two weeks. However, her payments were doing very little to decrease the size of the loan, and eventually, she had paid $1,689 but still had an outstanding balance of $1,082. Moreover, because the bi-weekly payments were being drawn directly from her bank account, she began to incur overdraft fees from her bank and was forced to close her bank account to stop the overdraft fees.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (1, 2)

35. Mary received a $300 payday loan from Fast Cash Advance in late 2009. She repaid the $300 loan and upon learning that Kentucky had made internet payday lenders illegal in January of 2010, Mary closed her bank account in order to stop Fast Cash Advance from continuing to withdraw funds from her bank account. Fast Cash Advance sold her remaining debt to another company who then turned the account over to a collection agency.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2)

36. Christine obtained a payday loan from US Fast Cash for $350 in May 2007. The contract stated that she would owe a total of $455, which reflects an APR of 496.73%. When Christine discovered that payday loans were illegal in Kentucky, she repeatedly contacted US Fast Cash to inform the company that she would instead pay a total of $411.61, the maximum amount allowed under State law for a $350 loan. However, US Fast Cash insisted that she owed $560 in payments and sent her a threatening and intimidating email accusing Christine of "unreasonable demands" and trying to "set the terms" of the loan and stating that no one "twisted [her] arm" to obtain the loan.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2007
    (2)

37. 500FastCash solicited Beverly via email to obtain a payday loan for $300, and she accepted. She had an agreement with 500FastCash to debit her bank account on Fridays as she is paid on those days. Instead, the company debited her account on Thursdays before she was paid, which resulted in extensive bank overdraft fees. Beverly's bank closed her checking account, and she has hired a bankruptcy attorney. Moreover, 500FastCash has put her employment in jeopardy. The company has harassed her at work, calling her office despite her numerous emails to the company stating that she is not allowed to receive personal calls during work hours.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2, 3)

38. Kenneth obtained a $250 payday loan and paid a total of $389 on the loan. Shortly thereafter, he took out another $250 loan with an APR of 547.5%. He paid $75 toward the new loan, but combined with the overdraft fees he had already been charged on the first loan, he had paid a total of $500. Kenneth asked the company to mark his account paid in full as he had repaid the $500 total principal amount of the two loans, but the company refused and continued to call him even though he requested that all correspondence be in writing.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (1, 2)

39. Doris received a $350 payday loan from Ameriloan. She was disabled and living on Social Security, and made an arrangement with the company to debit her checking account four times on the days she received her payments. Instead, Ameriloan twice debited her account the day before she received her Social Security check and she incurred overdraft fees. Moreover, after taking out the four payments she and the company had agreed upon, Ameriloan told her she still owed $455.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2, 3)

40. Carole received several payday loans in 2007 from different companies, including Ace Cash Express, Quik Cash, and Check 'N Go. She was on a fixed income consisting only of her disability payments, and she knew she could not afford to pay the balance of the loans. The companies never verified how many outstanding loans she had or whether she could actually pay the loans back. She notified each company that she wanted to pay the balance on her loans but could only pay $10 a month because she needed to have enough money to purchase her medication. Carole's son received a call from a person claiming to be a lawyer who told him that his mother was engaging in check fraud due to the outstanding payday loan. The caller instructed him to tell his mother to buy a prepaid card with $120 on it and to send her the routing number. She was collecting for a payday loan through Ace Express, which Carole could not to pay on, and the total loan price had ballooned up to $839.93. Carole could not afford to buy the prepaid card and was concerned that she would be sued by the company.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2, 3)

41. Joseph received a $500 payday loan from Eastside Lenders with a $150 recurring payment every two weeks. After the company deducted $150 from his account three times for a total of $450, Joseph was told that he still owed $650. He sent Eastside Lenders an email to let them know that he was revoking his ACH agreement under the Federal Electronic Funds Transfer Act, but they continued to debit his account.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2)

42. Dennis received a $300 payday loan, and was under the impression that he would owe a total of $390 on the loan. Every payday, $90 was debited from his bank account. The company continued to withdraw money, and by the time he was forced to close his bank account, he had paid a total of $990 on a $300 loan. After his account was closed, the payday lender began calling his place of employment despite Dennis's requests that all correspondence be in writing, and the company has threatened to sue him and garnish his wages.
    Source: Office of the Attorney General, Commonwealth of Kentucky, 2010
    (2)

43. In a 2012 court case initiated by the New Mexico Attorney General, Endow testified about her borrowing experience with FastBucks. She stated, "I didn't buy no TV. I didn't buy no jewelry. I didn't go on trips. It wasn't any joyous ride to go to the casino…It was basically to care of my family and put a roof over our head." She earned a mere $18,000-$19,000 a year, yet managers at FastBucks only asked for her pay stubs and bank statements rather than her expenses or other outstanding loans. Endow testified that eventually she had several outstanding loans and would use the proceeds of one to pay off the others. "I was starting to get stressed and

overwhelmed," she said, becoming tearful again on the witness stand. "What am I going to do? How am I going to make it? Is it ever possible to get out of this?" Nevertheless, Endow managed to pay back her loans without going into default until her last loan.
Source: *New Mexico Attorney General v. FastBucks*, 2012
(1, 2)

44. After Joe received a payday loan, he became unemployed. He owed CashNet one more payment of $332.22, so he explained the situation to a representative of the company. They said that they understood. He then received a call at his parents' home, stating that a collection agency needed to speak to him concerning check fraud. CashNet had sold his account to a third party without telling him, and the collection agency attempted to charge a bank account that had been closed. Although he had previously told CashNet he closed that bank account and would need to pay with a new debit card, the collections agency accused him of committing check fraud. The accusation of check fraud has caused unnecessary tension and stress between Joe and his parents.
Source: Alabama Attorney General's Office, 2011
(2, 3)

45. After receiving a $250 payday loan from EZ Money, Terri was contacted by the company at her place of employment. Despite the fact that she informed EZ Money she could not receive personal correspondence at work, the company sent a letter to her job informing her that she had an outstanding balance on her loan. The letter even included the name of Terri's supervisor, which Terri interpreted as a threat to contact her employer.
Source: Alabama Office of the Attorney General, Consumer Affairs Section, 2010
(2, 3)

46. Robyn received a payday loan from National Credit Consultants three years ago. After making three sizeable payments to the company, Robyn asked to have her due date pushed back just one day. The company refused, threatened to have her arrested, and insinuated that they would contact her place of employment. Robyn has been brought to tears several times and feels sick from the stress of the 4-5 calls she receives from National Credit Consultants each time a payment is due.
Source: Florida Attorney General's Office, 2011
(2, 3)

47. Justin received a payday loan for $450 from CashNet USA. Shortly thereafter, he noticed there was an additional $250 deposit in his bank account. He discovered that the credit was for a loan that he never applied for. He called the company and was told that CashNetUSA created a new loan on top of the one he already had because he had "shown interest." The company told him he should have declined the loan within three days if he did not want it, which he was unable to do because he had been out of town with no access to internet to check his bank account. Justin's bank account has been debited repeatedly for payments for the two loans; as a result, he has accrued $450 in bank overdraft fees and his bank has restricted the use of his debit card.
Source: Florida Attorney General's Office, 2008
(2)

48. A San Antonio family requested assistance from their church in developing a household budget and becoming financially independent. In the course of developing a budget, the church deacon

discovered that the family would be able to live within their means except for one item of debt that was dragging them down: a $700 payday loan they had taken out roughly four months earlier to help with a rent payment on their home. The terms of the loan: $200 every two weeks was automatically deducted from the husband's bank account and timed with the deposit of his paycheck. This $200 did not reduce the original amount of the loan. It merely allowed for the $700 principal to roll-over until the next pay-period. In the course of the four months the family had maintained this loan, they had rolled the principal over nine times—at a cost of $1,800. Now, as they approached the church again for help, they needed help to pay their rent or face eviction.
Source: http://www.christianitytoday.com/local-church/2016/july/texas-pastor-payday-loan-reform-isnt-distraction-its-christ.html
(1, 2, 3)

49. Dodie received a $500 payday loan from National Payday. The company now says that she owes over $1,200 on the loan but will not explain the extra fees. National Payday has called her employer, her family, and her husband's employer and has threatened to file criminal charges against Dodie. Her mother had a heart attack after one of the company's harassing phone calls. Dodie informed National Payday that she has filed bankruptcy, but the calls continue.
Source: Florida Attorney General's Office, 2006
(2, 3)

50. Over a 17-month time period, Lisa, a single mom living in North Carolina, received 35 payday loans from Urgent Money Service – roughly one loan every two weeks. She spent over $1200 in fees for a $255 cash loan that kept rolling over because she could never repay the loan within the two-week period. Each time, she would write a check for $300 and receive $255 back in cash. Urgent Money Service never took into account Lisa's income and expenses. Each of her biweekly paychecks amounted to only $600, so she was left with only $300 for her other bills and expenses until her next paycheck. The debt trap cycle continued as she couldn't afford to pay back the loan and couldn't stretch her remaining $300 to cover all her bills without obtaining yet another loan. The only way she could stop the withdrawals from her bank account was to close her account. It took her two years to finally pay off the $255 loan.
Source: Commerce Committee meeting testimony, North Carolina General Assembly, 6/17/2003
(1, 2)

51. Lenny, who made about $600 a week, went to Advance America thinking a payday loan would help him catch up on an overdue bill. Over a year later, he had renewed his Advance America loan every two weeks, fallen deeper into debt, and taken a second payday loan to stay afloat. Lenny lost his apartment and ended up in a homeless shelter. While he lived there, Advance America continued to flip his loan, charging $20 per $100 every two weeks, 521% APR.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(1, 2, 3)

52. Mr. & Mrs. Anderson were unable to cure the default on their home loan because of their payday loans. A construction worker, Mr. Anderson had taken out payday loans from Advance America to help them through a bout of bad weather that slowed his work. They paid $200 every two weeks in fees to Advance America, for loans in both his and her names. This debt disqualified the couple for their loan modification.

Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(3)

53. Jason, a military service member who worked on a nuclear submarine in Kings Bay, Georgia, borrowed $300 from Advance America to make ends meet after being in a car accident. He soon found himself taking out loans from other payday lenders as he fell further and further behind. "In five months, I spent about $7,000 in interest, and didn't even pay on the principal $1,900. I was having marital problems because of money and didn't know what to do for Christmas for my kid," Jason told an AP reporter. The base emergency relief office finally helped Jason by paying off his triple-digit payday loans, some as high as 780% APR, and letting him repay the charity's interest-free loan over 18 months.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(1, 3)

54. Clarissa and her 15-year-old son put in more sweat equity hours than required on their Habitat for Humanity house, in joyful anticipation of living in their own home. Clarissa worked full time, but received no child support and struggled to manage her expenses, sometimes taking on a second job. When the company she worked for shut down, Clarissa borrowed from Advance America and Nationwide. Eventually, when she couldn't repay one of her loans, the payday company deposited the check they were holding as collateral. The check bounced and both her bank and the payday lender charged her additional fees for insufficient funds.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(2, 3)

55. Anita went to an Advance America store in hopes of finding a solution to a common problem -- how to delight her grandkids on Christmas. Unable to repay the loan, she had to renew her loan with Advance America every payday, paying $45 to keep the same $300 loan outstanding. She went to a second payday lender, Check 'n Go, to help repay Advance America. Anita could not afford the $820 it would take to pay off the two loans in full and get out of the trap. After just four months, she had paid almost $1,000 in fees, and still owed the $820. "I got a promotion and a raise, but I never saw any of that money," said Anita. She finally went to her church to get help paying the rent, and to a consumer credit counseling agency to get help negotiating a repayment plan. It took her nine more months to complete these payments.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(1, 2, 3)

56. Danny, a forklift operator from Kannapolis, was making $9.00 per hour. He got behind on his bills after being hospitalized from a heart attack and stroke. He went to his first payday lender in March 2000 and borrowed $300 for a 7-day term. This was about the same as his weekly pay, so he could not afford to pay back the loan, and got caught in the debt trap. Over the course of two years, Danny used eight different lenders including Advance America, Advance Internet, Check into Cash, and First Southern Cash Advance. He paid more than $5,000 in fees over the next two years, with over 170 check stubs for payments to these payday lenders.

Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(1, 2)

57. Stephanie paid her first payday loan back the first time when it was due on payday, but a few days later came up short again, so she took out another loan. "I was paying the fees, but still coming up short on bills. So I got a loan from another lender just to pay the fees on my other loans. I ended up with several loans from different payday lenders, struggling to pay the interest every two weeks so I wouldn't default, because if I did they would have passed my check to the bank." Stephanie had loans with Advance America, Check Into Cash, Check 'n Go and several others. Eventually she was paying $800 every month just in interest fees, without paying down any principal. "The payday lenders were not willing to work with me, even after I talked to them about my situation following the advice of my credit counselor," she said. One payday lender threatened to send her check to the magistrate's office, and to take her to court for writing a bad check.
Source: *Caught in the Trap: The real story from payday lending borrowers* – CRL Issue Brief, June 2010
(2)

58. Betty, a senior in Durham, took out a small $100 payday loan. She had no other debt at the time. When this loan came due a month later, she borrowed from a second payday lender to repay the first. And, then she did this four more times. Each time, it was slightly less expensive to flip a loan than to pay the bounced check fees if she defaulted. With six loans, she was paying over half of her $564 monthly Social Security income in payday fees, never paying down a penny of principal on these loans. She lost her phone and got one-time emergency help from social services to avoid eviction. We suspect Betty was later evicted when we could no longer reach her at her apartment.
Source: CRL Issue Brief: *Why We Must Keep Payday Lenders Out of NC: North Carolinians Caught in the Debt Trap*, April 2016
(2, 3, SL)

59. With retirement and disability income, Mary, a 62-year-old African American mother and grandmother, brought in about $1,000 per month. She took out her first payday loan because she needed "a little extra" money to go out of town. Like many borrowers, she had to take out a second loan to pay off the first. She ended up with loans from four payday lenders. "When I get a little extra money, I'm going to pay them off and I'm through with them," said Mary. "It's a rip off. There's nothing cute about it. I'm supposed to get some money, but I lose money." The fees Mary paid to keep from defaulting on her payday loans added up to over 40 percent of her monthly income.
Source: CRL Issue Brief: *Why We Must Keep Payday Lenders Out of NC: North Carolinians Caught in the Debt Trap*, April 2016
(2)

60. After her husband was laid off, Pamela borrowed $500 from a payday lender. But the Phoenix, Arizona, woman found that she, like many other borrowers, could not manage to repay the $588 she owed ($500 plus $88 in fees) when it was due in two weeks. She went to a second lender to pay the first, and a third to pay the second, getting in deeper until she had five loans of $500. She was paying $880 every month in payday fees, never paying down the principal owed.

By June of 2004, she had paid $10,560 in interest on these five loans. She was afraid of going to jail if she stopped paying the fees, and had no idea how to get out of the trap.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(1, 2)

61. Kym, a single mother working as a temp in the Triangle area, took out a payday loan when a friend told her about how she could borrow money until her next payday. She quickly fell into the debt trap, and had to pay a high fee every payday to renew the loan and avoid default. When she had trouble keeping up this cycle, she took out a second loan to pay fees on the first. She paid on both loans for about a year, finally convincing one of the lenders to let her pay off the loan in increments. It took Kym another eight months to shake free from the debt trap.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(1, 2)

62. As a grad student in North Carolina's Triangle area, Allen found it very difficult to pay off the four payday loans he had accumulated. When he did manage to pay off one or two of the loans, he soon found himself strapped for cash and forced to renew the loan. Allen finally sought help from a credit counselor. He sent letters to the payday lenders asking for a payment plan he could afford. But instead of helping him work out payments, one of the lenders deposited his check upon receiving his letter, and it bounced twice before he could cancel the check. Two other lenders were internet-based companies who automatically drafted his checking account. He had to close his account to stop them. When one of these lenders received Allen's payment plan letter, they called and threatened to send a sheriff to his house and serve him court papers. Allen now realizes he has technically repaid the debt several times over in rollover fees.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(2)

63. Rhonda and her two daughters experienced a financial crisis last summer that sent Rhonda looking for help from payday lenders. She found not the help she needed, but disaster. Rhonda fell into the payday lending debt trap - the terms of the loans she took out required her to either pay them off in less than two weeks or have $90 fees automatically debited from her bank account repeatedly. Those loans, at triple-digit APR, have cost her much more than the exorbitant fees. Her family's finances are in ruins and she is planning to file bankruptcy.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(1, 2, 3)

64. Like many borrowers, Janis went to one payday lender to get help paying the fees of another. She ended up borrowing from three different lenders. Since she could not pay the loans in installments, she paid the repeat fees until she got her tax returns. When she couldn't keep up with the fees one lender demanded, they called and left her a message saying that they would take her to court if her account was short. It was several months before Janis found her way out of the trap, and she needed help from social services during this time, once to pay her rent and twice to pay her light bill.

Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(1, 2, 3)

65. Sandy's first payday loan was for $100, with an $18 fee. She worked down the street from the payday shop, and since she was short on cash, she called to see what she needed to get a loan. All she needed was a source of income and a banking account, so she walked into the shop, and walked out 15 minutes later with the loan. Sandy got caught up in the payday lending debt trap, taking out multiple loans to pay the fees on each one as they became due. At one point, she was paying $300 every two weeks for four different loans. Over a six-month period, this added up to $3,600, but she was in the trap much longer, paying off one loan, then another, until she lost her job and could no longer keep up with the fees. She filed bankruptcy.
Source: CRL website: *The Victims of Payday Lending*.
http://www.responsiblelending.org/issues/victims-payday.
(1, 2, 3, SL)

66. Betty, a senior citizen in Durham, North Carolina, paid over half of her $564 monthly Social Security income in payday fees, never paying down her loans. She lost her phone and needed emergency help from social services to avoid eviction.
Source: CRL website: The Victims of Payday Lending.
http://www.responsiblelending.org/issues/victims-payday.
(2, 3)

67. Mr. R utilized payday loans for temporary help when he struggled to pay his bills. He ended up taking out at least 24 loans over the course of four years, becoming trapped in the payday debt cycle. His final loan was from a tribal payday lender who took $250 out of his bank account every two weeks. Only $50 of the payment applied to the principal of the loan, with the remaining $200 going towards fees. Eventually Mr. R was forced to close his credit union account, and even though he had repaid the principal several times over, he was harassed with round-the-clock phone calls from the payday lender.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(1, 2)

68. Patricia paid half of her income every pay period to internet payday lenders. She obtained five internet payday loans, including one from a tribal lender, with a total of $2,000 to help pay her bills after incurring unanticipated medical expenses. The APRs on the loans ranged from 620% to 990%. The lenders took close to $600—half of her income—from her bank account every two weeks. After she had repaid more than the principal amounts of the loans, she closed her bank account to stop the lenders' debits.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(1, 2)

69. Ms. B is a 71-year-old whose only income is her Social Security benefits and her pension. In November 2012, she received payday loans from three different lenders to help pay her bills.

Immediately, she struggled with the payments, which caused her to fall further behind on her rent and other bills. As a result, she took out another payday loan in January 2013. Fortunately, she was able to stop the lenders' withdrawals by closing her bank account, but they continue to harass her by phone and email, even threatening to sue her on the illegal loans.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(2, 3)

70. Ivy, a retail worker from Brooklyn, took out six internet payday loans carrying APRs as high as 782%, to help pay her bills. The payday lenders continuously drained her bank account, often triggering overdraft fees. In a two-month period, the lenders tried to debit her account 55 times, and she was charged $1,500 in overdraft fees as a result. Because she was unable to pay the overdraft fees, her bank closed her account and reported her to ChexSystems, a consumer reporting agency, to prevent her from opening accounts at other banks.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(1, 2, 3)

71. Subrina's exempt child support funds were seized by her bank after she took out three internet payday loans to help pay her bills. The lenders withdrew as much as $168 in fees from her bank account biweekly, while her bank charged her $800 in overdraft fees as a result of the repeated debits. Further, the bank illegally seized more than $600 in child support funds to cover the fees. The payday lenders refused to stop debiting her account. The bank eventually closed the account, but repeatedly called her to pay the overdraft fees and reported her to ChexSystems, a consumer reporting agency, to prevent her from opening accounts at other banks.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(2, 3)

72. Cynthia, a New York City employee and single mother, borrowed eight payday loans over the course of several months when she fell behind on her rent. Soon, her entire paycheck was swallowed by the lenders. One company that debited money from her account never even made her a loan, but simply obtained personal and financial information from another lender and began electronically debiting her account. Cynthia's bank charged her $1,390 in overdraft fees, seized $721 in child support funds, closed her account, and reported her to ChexSystems so that she could not open an account at another bank. Two years later, debt collectors continue to harass Cynthia to repay the illegal loans.
Source: Brief of *Amici Curae* Nine Advocacy Organizations in Support of Defendants-Appellees Urging Confirmance, *The Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, No. 13-3769 (2nd Cir. Nov. 13, 2013).
(2, 3)

73. Yesenia's mother was diagnosed with breast cancer and could no longer work, so Yesenia borrowed $510 (two loans of $255 each) to help pay the rent. She was trapped in a cycle of debt for 5 months, where she paid $90 every two weeks in fees alone. When she became late on a

payment to the payday lenders, they debited her bank account for the full amount of the loan, wiping out all of her funds and causing her to incur overdraft fees. A non-profit charity called Season of Sharing helped her pay one month's rent and she was finally able to pay back the loans. She paid $900 in fees to borrow $510.
Source: http://www.responsiblelending.org/issues/payday-loans-california-video
(2, 3)

74. George, an elderly man living in California, borrowed $1,020 (4 payday loans of $255 each). He was stuck in a debt trap for three years and paid $180 in fees every two weeks. Dolores Street Community Services helped him find his way out of the debt trap. He paid $12,960 in fees to borrow $1,020.
Source: http://www.responsiblelending.org/issues/payday-loans-california-video
(1, 2)

75. Michael borrowed approximately $1,530 (six payday loans of about $255). He has been stuck in the debt trap for more than two years and pays $270 per month in fees alone. Michael's monthly fees take a quarter of his Social Security benefits. He is working with a non-profit organization called Community Housing Works to help him get out of the debt trap. So far, he has paid more than $6,000 in fees to borrow $1,530.
Source: http://www.responsiblelending.org/issues/payday-loans-california-video
(1, 2)

76. Kimberly borrowed $1,550 from three different payday loan companies: one store front, one online, and one bank payday loan. She was stuck in a cycle of debt for nearly six months. She stopped paying her electric bill, went without power, and stopped buying groceries until she was able to pay back all her loans. She paid more than $2,800 to borrow $1,550.
Source: http://www.responsiblelending.org/issues/payday-loans-california-video
(1, 2, 3)

77. In June 2014, Dina took out a $4,570 installment loan from NetCredit. She was behind on her mortgage payments and other household bills and thought the loan could help her get back on track. The interest rate was advertised as 5% but in fact the loan carried an APR of 64%. The loan contract requires her to pay $135 every two weeks for three years, which means she will have paid more than $10,530 to borrow $4,560. Because she is paying $270 per month, she is having a hard time making her mortgage payments. Since obtaining the loan, Dina has been late on her mortgage every month and her credit score has dropped to 590. Instead of helping her get out of financial distress, the loan has put her in an even worse situation.
Source: CFPB complaint, NetCredit loan contract
(1, 2, 3, LT)

78. In May 2013, National Financial, LLC loaned $200 to Gloria James, a resident of Wilmington, Delaware. James worked in the housekeeping department at a hotel, earning $11.83 per hour. As a part-time employee, her hours varied. On average, after taxes, James took home approximately $1,100 per month. National described the loan product as a "Flex Pay Loan." In substance, it was a one-year, non-amortizing, unsecured cash advance. The terms of the loan called for James to make twenty-six, bi-weekly, interest-only payments of $60, followed by a twenty-seventh payment comprising both interest of $60 and the original principal of $200. The total repayments added up to $1,820, including $1,620 in fees. According to the loan document

that National provided to James, the APR for the loan was 838.45%. Before this loan, James had obtained five prior loans from National. For her first loan from National, James borrowed $100 on September 1, 2011. She repaid a total of $205 by making five payments over the course of two months. For her second loan, James borrowed $100 on August 22, 2012. She again repaid a total of $205, this time by making four payments over the course of two months. For her third loan, James borrowed $150 on October 31, 2012, less than two weeks after repaying her second loan. She repaid a total of $252 by making three payments over the course of two months. For her fourth loan, James borrowed $100 on December 20, 2012, one week after repaying her third loan. She repaid it the next day by making a single payment of $102. The prompt repayment suggests that James refinanced her loan through another provider. For her fifth loan, James borrowed $200 on December 27, 2012, less than one week after repaying her fourth loan. James failed to make the second payment, failed to make the fourth payment, and finally repaid the loan two months later. Her repayments totaled $393. Despite James' difficulty in repaying her fifth loan, National sent her text messages soliciting her interest in another loan. A text message on March 29, 2013, stated, "Loan Til [sic] Payday welcomes you with open arms. If you ever need a loan again we want to be your source! :)" A text message on April 5, 2013, stated, "Loan Til [sic] Payday misses you! Call NOW and receive $20 off your first payment."
Source: *James v. National Financial, LLC*, 132 A.3d 799, 805 (Del. Ch. 2016)
(1, 2, LT, SL)

79. Realizing that her next payday was two weeks away, Leticia Ortega worried about how she was going to get enough cash to pay overdue telephone and electric bills. Then Ortega, a cashier in San Antonio, Texas, spotted an advertisement by National Money Service in a local weekly newspaper. National Money Service charged her a $90 interest fee for a $300 loan, due by her next payday. This fee amounts to an APR of 780%. When the loan's due date arrived, Ortega did not have sufficient cash to repay the entire loan. Consequently, for almost a year, National Money Service debited Ortega's bank account every two weeks in the amount of $90 as interest to "roll over" the loan. Because none of the $90 interest payments counted as principal, Ortega still owed National Money Service $300 even though she had paid $1,800 in interest charges.
Source: Creola Johnson, *Payday Loans: Shrewd Business or Predatory Lending?*, 87 Minn. L. Rev. 1, 2–3 (2002)
(1, 2)

80. When her job sorting jeans at a garment factory didn't pay the bills, 47-year-old Patricia Turner went to E-Z Check Cashing of Cookeville, Tennessee. E-Z loaned her $300 for 30 days, and Turner secured the loan by writing a check for $405, $105 of which was for interest and "Other Charges." The APR on this loan was over 400%. At the end of the 30-day period, Turner was unable to repay the loan. She did not have enough money in the bank to cover the check or enough cash to pay the debt outright. She could have defaulted, but instead she chose to extend the loan by paying a cash extension fee of $105. After she extended the loan eight times, paying $840 over an eight-month period without reducing the principal of the loan, she was unable to pay either the balance of the loan or an additional extension fee. With full knowledge that there were insufficient funds in her account to cover it, E-Z then deposited Turner's eight-month-old check into its account. When the check bounced, Turner was forced to declare bankruptcy.
Source: Charles A. Bruch, *Taking the Pay Out of Payday Loans: Putting an End to the Usurious and Unconscionable Interest Rates Charged by Payday Lenders*, 69 U. Cin. L. Rev. 1257 (2001)
(1, 2, 3)

81. On a monthly basis from March 2005 through November 2007, Wilma A. Ruby entered into a total of 33 payday-loan agreements with Cashnet, Inc., d/b/a Cash Advance Centers. The amount of each loan increased over time, starting at $200 and reaching $500. Typically, Wilma would pay $575.00 in cash to Cashnet and would immediately enter into another payday loan agreement with Cashnet for $500. Wilma was to repay the $500.00 plus a 15% finance charge of $75.00 (for a total of $575.00) to Cashnet one month later. On the due date, Wilma would again pay $575.00 in cash to Cashnet and immediately enter into another loan with the company. This cycle continued until November 2, 2007, when Ruby entered into her final payday-loan agreement with Cashnet for $500. She could not repay this loan. With a fixed income of only $624.00 per month, Ruby could not afford to repay in full her loan with Cashnet and meet her monthly expenses. Thus, each time she repaid in full one loan, she immediately had to obtain another, usually for the same or a greater amount.
Source: *Ruby v. Cashnet, Inc.*, 281 Va. 604, 607, 708 S.E.2d 871 (2011)
(1, 2, SL)

82. On December 14, 2010, Timothy Williams obtained a short-term personal loan from Valued Services. The loan was for $550, and was due to be repaid approximately one month later. The APR was listed at 385.28%, with a total finance charge of $156.75. On January 10, 2011, the day the December loan was due, Williams obtained another loan from Valued Services to repay the December loan. The January loan was for $706, with APR of 246.51%, and a total finance charge of $1,241.40. It required Williams to repay the loan in 12 monthly payments, beginning February 9, 2011. Valued Services made high-interest loans to Williams despite the fact that Valued Services' files showed Williams' sole source of income was a monthly social security payment of $1,147. It also showed that in November 2010, Williams had an ending checking account balance of $8.32.
Source: Williams v. Valued Servs. of Wisconsin LLC, No. 2012AP2115, 2013 WL 4016941 (Wis. Ct. App. Aug. 8, 2013)
(1, 2, LT)

83. In March 2012, Rodella Smith obtained a loan for $5,000 from Western Sky Financial. The loan was subject to an APR of 116.73%, and the repayment term was set for a period of about seven years, resulting in a total payment of $41,172.61. She made payments of $480 for over two years, paying Western Sky approximately $13,000 in total—more than double the original loan amount. She then refused to make any more payments, and that's when the company began calling Smith's work and home phone numbers and emailing her, demanding ongoing payments and threatening to report Smith to credit reporting companies. The company has also called Smith's granddaughter four times accusing her of owing a debt and requesting Smith's contact information. Smith has suffered emotional and mental pain and anguish and damage to her credit as the result of reporting a debt that she does not owe.
Source: Civil Action Complaint, *Smith v. Western Sky Financial, LLC*, 168 F. Supp. 3d 778 (E.D. Pa. 2016), *appeal dismissed* (Apr. 19, 2016)
(1, 2, 3, LT)

84. In June 2008, Dominginho Powell obtained a car title loan from The Payday Loan Store of Illinois (PLS) using his 1972 Oldsmobile as collateral. He had been having financial difficulties and needed a loan to make ends meet. The loan was for $2,265 with an APR of 300% and called for two installments: one payment of $558.49 in July and a balloon payment of $2,842 in August.

The finance charge was listed as $1,135.60. PLS knew that Dominginho would not be able to make the balloon payment at the time of the loan but entered into the transaction anyway. When he went in to make the first payment in July, he was told that he had to refinance the loan. He went back to PLS in August to make his second payment, and PLS took a payment for the old loan and told Dominginho that he was required to refinance the remaining balance of $2,263, which was not yet due. PLS flipped his loan seven more times, each with terms more unfavorable than the last. Dominginho was told this is the "way loans work." When he was told he had to refinance for the seventh time, Dominginho realized that he had paid almost $5,000 in finance charges for a loan that was supposed to cost $1,135. He still owes $2,235—almost the original principal amount of the loan.
Source: Complaint, *Powell v. The Payday Loan Store of Illinois, Inc.*, No. 09 C 4146, 2010 WL 3893894, (N.D. Ill. Sept. 28, 2010)
(1, 2, CT)

85. Peter Alfeche entered into 23 payday loans with CashNet over a 10-month period, paying the company approximately $2,000 in fees. Being short on money an unable to meet all of his monthly expenses, Peter first obtained a loan from Cash America in November 2006. He agreed to borrow $250 for nine days for a fee of $62.50, representing an APR of 1,013.89%. Many of his subsequent 22 loans were obtained to pay off previous loans, as he often lacked enough money on the due date to pay off the loan and still pay his recurring expenses. Once Peter had established a personal account with CashNet, he also received email invitations to take out more payday loans from other internet payday lenders. Over the 10-month period in which Peter received the 23 loans from CashNet, he also obtained additional payday loans from some of these other lenders. In addition to paying $2,000 in fees to the payday lenders, he incurred hundreds of dollars per month in overdraft charges from his bank.
Source: Class Action Complaint, *Alfeche v. Cash America International, Inc.*, No. CIV.A. 09-0953, 2011 WL 3565078 (E.D. Pa. Aug. 12, 2011)
(1, 2)

86. Cynthia Williams and her husband were facing financial difficulties, so she decided to apply for and received a payday loan of $500 with an APR of 430% from Advance America. Over the next year, she was trapped in a cycle of debt with the company. Although the payday loans consumed over half of her monthly income, Advance America never considered Cynthia's ability to repay. As a result, she fell behind in her mortgage payments. Cynthia and her husband were only able to save their home with the help of a nonprofit foreclosure prevention group by taking on second jobs and increasing their workload by 70 hours per week.
Source: Plaintiffs' Second Amended Complaint*, Williams v. Advance Am., Cash Advance Centers of Missouri, Inc.*, No. 07-04187-CV-C-NKL, 2007 WL 3326899 (W.D. Mo. Nov. 6, 2007)
(1, 2, 3)

87. In order to evade the Arizona's voter mandate sunset of payday loans, the Ohio-based payday lender CheckSmart started making an open-end line of credit linked to a prepaid card in the months preceding the sunset's effect (and after CheckSmart unsuccessfully tried to push legislation in 2010 to repeal the voter's mandate). While this product is no longer on the market, because it was shut down via regulatory action as an evasion of consumer protections, here is what happened to one Arizona borrower: A 71 year old gentlemen was given one of these open-end line of credit loans by CheckSmart one month before the payday loan sunset in 2010. He was told by CheckSmart that it was his only option. His only income was a monthly

Social Security check of $2,350. The line of credit was for approximately half of this amount: $1,402. The fees then were structured as the following – 36% annual percent interest rate, but a "convenience transfer fee" that were far in excess of the actual interest. Because it was an open-end line of credit, the contract only states a 36% APR, despite all of the additional fees that would add up to an effective triple-digit APR.
Source: Contract on file with CRL
(1, LT, OE)

88. Check Into Cash, a Tennessee-based payday lender, makes open-end lines of credit to borrowers in Virginia. According to a legal services attorney in Virginia, here is one client's story: One woman, now aged 63 and whose source of income is comprised of disability plus a small pension, took out an open-end line of credit from Check into Cash in 2011. She is still paying it off today. She has paid over $3,000 in fees and interest alone on what has been less than $1,000 of credit over that time. This same borrower has another open-end line of credit from California-based payday lender– Allied Cash Advance. With this loan she has paid over $1,100 in fees after being stuck for more than a year in a $360 loan. As further evidence of payday lenders' disregard for the affordability of these loans, this same borrower is stuck also payday and car title loan as well. Because the monthly fees consume such a large amount of her monthly income, she forgoes purchases of the food and medicine she needs.
(1, 3, CT, LT, OE)

89. Single mother Malia Andrews lives in Tennessee, and obtained an open-end line of credit with a 279% APR. When she was short on cash, she took out one of these loans. Although it was touted as a better alternative to payday loans, it was not any better for Andrews. "I just about had a complete meltdown in the car," Andrews recalled, describing the moment she realized it would take years to pay off her flex loan. While approximately $300 of her monthly payment went to interest and fees, only about $20 actually paid down the principal of the loan. If she'd known how much the loan would end up costing her, she never would have taken it out.
Source: http://www.newschannel5.com/news/newschannel-5-investigates/consumer-alert/critics-call-279-loan-a-debt-trap-for-poor
(1, LT, OE)

90. Military veteran Joshua Hause had two existing loans for $925 that he said more than doubled after they were converted to a flex loan, an open-end line of credit carrying a 279% APR. Suddenly, his loan payment was over $2,000 when his original loan principal was less than half that amount. Due to the exorbitant interest and fees, Hause keeps getting farther behind. "If they're going to continue to get higher payments each month, I'll never get out of that hole," he lamented.
Source: http://www.newschannel5.com/news/newschannel-5-investigates/consumer-alert/critics-call-279-loan-a-debt-trap-for-poor
(1, LT, OE)

91. Jennifer Williams of Clarksdale, MS, teaches at a high school but remains in a debt trap due to payday lenders. She at one point owed thousands to nine different payday lenders in three separate towns. What started as a $100 loan when she had just began teaching in 2006 and needed a small amount of money due to her credit cards defaulting in college, had accrued to $4,000 in debt by 2009. She says, "It takes a toll on you, mentally. Those places are the devil. Once you get wrapped into it, it's hard to get out". After her son was born in 2011, she decided

to enroll in a 5-week financial boot camp, which was sponsored by the community bank, Southern Bancorp. As a result of completing the boot camp, she qualified for a savings account, as well as an affordable loan, with which she could refinance her debt. Credit counselor Charlestien Harris from Southern Bancorp states that Jennifer's situation is not uncommon.
Source: http://www.csmonitor.com/Business/2016/0903/Payday-loans-a-scourge-but-still-a-need
(2, SL)

92. Don Miller of HopeLink, a center that assists low-income families and people in Nevada, says that most seniors who he works with are living on $700-900 per month for utilities and rent. Some may take out $150 in payday loans to afford food in a crisis, not realizing that it will take them at least a year or two to pay off. Miller states that many of the seniors go into debt, with at least half of them having taken out payday loans. He also states that they often default on their loans and receive an influx of phone calls from the lenders, who usually threaten to send a lawyer to their homes.
Source: http://www.reviewjournal.com/view/seniors-often-pay-hefty-price-relying-payday-loan
(2, SL)

93. A man confided in pastor Wes Helm about his financial hardship with payday loans. Helm looked through the man's budget and discovered one major monthly expense: a payday loan fee three times more than the loan itself. When the church conducted a further investigation, they found that dozens other families at the church had been victimized by payday lenders as well, sometimes even losing their vehicles and homes.
Source: http://www.npr.org/2016/06/16/481558398/with-payday-loans-burying-borrowers-community-tries-alternatives
(2, 3)

94. Candice Byrd was a payday loan borrower in 2011, when she took out a $500 loan for a car payment. She was working in sales at the time. It was due in six weeks; however, three weeks after she took out the loan, she was advised to take out a new loan. She was told, "You're a good customer. This would be helpful for you." That second loan spurred a two-year cycle of paying off her debt. She eventually lost her car and apartment. She now only pays in cash. She said, "These places want you to keep borrowing. They don't want you to climb out of the hole."
Source: http://www.nytimes.com/2016/06/02/business/dealbook/payday-borrowings-debt-spiral-to-be-curtailed.html?_
(2, 3, LT)

95. J.F. from Fresno, California, stated, "About two years ago I used a payday loan to assist with monthly expenses. I thought it would be easy to pay off but then I noticed I could not afford to pay the loan without securing another! The lenders provide little to no other option to pay back the loan which lets you know they aren't concerned with helping you get through the hard spot they are more concerned with keeping you in the endless cycle to pad their pockets! Payday loans are BAD business!!!"
Source: Collected by the California Reinvestment Coalition and quote reprinted verbatim from https://calreinvest.wordpress.com/2016/06/01/california-payday-loan-consumers-share-their-experiences/
(1)

96. S.F. from Oakland, California, shared, “In 2006 I was working full-time but when my boyfriend moved out I had to pay the entire rent myself and had trouble making ends meet. I started to use the payday loans and soon found myself in an endless cycle of debt, having to pay off two or more in cash every two weeks in order to get two more to cover my bills. The loan rates were outrageous and some of these franchises require you pay in cash instead of depositing your personal check. It took me a couple of years to get out of this cycle of debt and it kills me to think of all the money I lost on fees over those years. I will never use those services again. These companies are absolutely predatory and should be fully regulated and restricted since they profit from the people who can least spare the financial fleecing. Thank you."
    Source: Collected by the California Reinvestment Coalition and quote reprinted verbatim from https://calreinvest.wordpress.com/2016/06/01/california-payday-loan-consumers-share-their-experiences/
    (1, 2)

97. J.J. from Lamont, California, stated that he had "[n]o work, needed money to keep afloat and the lender made it too easy to get loan, a car title loan and it has been a nightmare, do yourself a big favor don’t ever get a title loan!"
    Source: Collected by the California Reinvestment Coalition and quote reprinted verbatim from https://calreinvest.wordpress.com/2016/06/01/california-payday-loan-consumers-share-their-experiences/
    (CT)

98. M. from San Diego, California, lamented, “I have been caught up in payday loan for over a year now it’s taking all of my money and I don’t know how to get out help."
    Source: Collected by the California Reinvestment Coalition and quote reprinted verbatim from https://calreinvest.wordpress.com/2016/06/01/california-payday-loan-consumers-share-their-experiences/
    (1)

99. D. D. from Los Angeles shared his story, explaining, “I was in a difficult financial time in my business and needed a $2,500 loan to cover my rent that was due. I had exhausted all my other options and wasn’t expecting any checks for a few weeks. I own my car and decided to go to Loanmart to get a loan. I called them up, told them what I needed and what kind of car they had. They approved me for $3,000, even though I asked them for only $2,500. Considering I was desperate for money, I went ahead with it, not knowing about the interest cap over $2,500. Which I am sure they were well aware of and is why they urged me to get a higher loan. So, after 2 years of paying, I have now given them over $4,500, that’s $1,500 more than the original loan. They say I still owe them $3,000. For a total of $7,500 due on a $3000 loan. It’s highway robbery. These people are awful, they harass me all the time, lie to me about payment due dates and even on one occasion sent me to collections on a missed payment even though I had already paid it for that month from their 3rd party payment site (moneygram). I went and checked and the payment never went through. Which is very suspicious. Now they are threatening to repo my vehicle. I don’t know what to do, this whole experience has been horrible. I am self-employed and struggle enough getting by. I hope someone can sue them for these shady business practices. I will be more than happy to testify against them.”
    Source: Collected by the California Reinvestment Coalition and quote reprinted verbatim from https://calreinvest.wordpress.com/2016/06/01/california-payday-loan-consumers-share-their-experiences/

(2, CT)

100. An anonymous borrower reported the following story to the Pew Charitable Trusts, who shared the story with the LA Wave: "I had to come up with money [when] my husband was out of work, and I actually was up to $900 [in storefront payday loan debt]. … My entire check was gone the next two weeks, so that's when I went to the online ones. … And then after I did the online ones, and got in that loop, and got stuck in there, I went back to the store again, and, yeah, it got bad. And my [checking] account ended up pretty negative. I had to close it out totally."
Source: http://wavenewspapers.com/payday-lenders-may-face-new-regulations/
(1, 3)

101. Raymond Chaney, now 66, is a veteran who became homeless after he took out a payday loan and spiraled into the debt trap. He needed $400 to repair his broken-down car. Soon enough, he owed mounds of money on several loans to many different lenders. He also owed overdraft fees to banks while paying rent. The payday lenders had full access to his account and eventually took all of his Social Security money. Chaney lost his apartment as a result. The $400 loan led to $3,000 in additional loans, which later accumulated to $12,000 of debt. "I'm not dumb, but I did a dumb thing," he said. He now lives in a rescue mission located in Boise, and is working with the Idaho Consumer Finance Bureau to pay off his debt. His advice to anyone considering taking out a payday loan is as follows: "I had a friend who had back surgery, and it was so painful...If the choice is between back surgery and dying, consider dying. Well, I give people the same advice about payday loans. If the alternative to a payday loan is dying, think long and hard about dying."
Source: http://www.nbcnews.com/feature/in-plain-sight/drug-payday-loan-users-hooked-quick-cash-cycle-v18088751
(2, 3)

102. Ann Baddour, Director of Fair Financial Services Project, spoke on behalf of an anonymous borrower at the United Way Leadership Breakfast. She said that the senior citizen, who was living on Social Security, had taken an auto title loan at a value of $2,000 three years prior. She still owed the lender $1,900 after paying off $9,200 on the $2,000 loan.
Source: http://www.tdtnews.com/news/article_fa7d0ea0-7f8f-11e6-9006-afc9a2e7f963.html
(2, CT)

103. As reported by the American Forces Press Service, one military borrower took out a $300 loan when he was desperate for money to help him afford expenses necessary for his three children. He got trapped into the cycle of jumping from lender to lender in order to afford the original loan. The $300 loan soon cost him $15,000.
Source: http://www.military.com/money/personal-finance/credit-debt-management/pay-day-loans-big-business-for-them-headache-for-you.html
(2)

104. Joylynn M. Jossel from Columbus, OH, took out a loan of a couple hundred dollars. She could not pay off the first loan, so she took out a new loan from another payday lender, eventually owing money to four different lenders. Soon she was paying $1,800 each month on payday loans alone. At one point, she had to let a $600 loan she had taken out bounce to avoid dire circumstances. "It was either that or not pay my rent that month," she says. "It was horrifying. They tell you any and everything to get you to come in and pay for the check that didn't clear.

They'll tell you, 'You're a criminal, you wrote a bad check. That's against the law, it's a felony, you're going to jail.' They call all of your references and your job. It's horrifying. I felt so suffocated. It felt as if I was in this black hole that I just couldn't get out of." Soon enough, the other three loans bounced as well, as she had to afford basic living expenses as well. She faced embarrassment at work when the lender called her at work and the receptionist would say who the caller was in front of the office before turning the call over to Joylynn. "Every time the phone rang, I'd jump like I was the next one in a horror movie to be taken out. I'd fear they'd come to my house because I'd known them to go to people's houses before. I felt guilty just putting gas in my tank. I felt guilty buying food. I felt as though any money I got should be going to the payday lenders and collection agencies to get them off my back." Eventually, she was able to repay her loans after winning a civil lawsuit not affiliated with her payday loans.
Source: http://www.aol.com/article/2010/11/02/payday-loans-how-one-woman-got-caught-in-a-vicious-cycle/19674757/
(2, 3)

105. Donald Garrett got behind on his bills, so he took out a $100 loan from Advance Till Payday and repaid them $200. "And I said, 'I appreciate you loaning me the $100. I'm sorry that I was in this bind but you helped me and I appreciate it and you won't see me anymore.' And I thought that was the end of it." Later on, he was receiving a dialysis treatment when he received another phone call from the company. "And he told me that I had a balance of $260 outstanding because of the $80 a month membership fee. Where did that come from? Nobody mentioned that when they gave me the $100."
Source: http://wvtf.org/post/federal-lawsuit-reveals-dark-underworld-payday-loans-virginia#stream/0
(2, SL)

106. Roger Tillman, 64, took out a $500 payday loan from The Money Center when he was tight on cash and needed to pay his bills. He was earning $9.00 an hour working as a late-night security guard. The Money Center's website states that they charge an APR of 650%, amounting to about $150 in interest and fees on a 2-week loan. He could not pay the loan back before the first two weeks, and renewed it as the costs accrued. He took a loan out from another payday store, falling into a debt trap. He soon lost his job. He tried to contact The Money Store two days later, and got no response. The manager finally reached out to Tillman. He recalls of the manager, "His statement was that 'I hope you don't get stopped by the police, because I'm filing a theft by check charge against you.' I didn't say anything. I was floored, because I was expecting to work out a payment plan." The Money Center filed a criminal complaint against him in November of 2009. The district attorney told Tillman that he must pay Marpast of Texas, the company through which The Money Center operates, $1,020 within 10 days, in addition to lawyers' fees of $140 and $90 in merchant fees. Otherwise, he would face 2 to 20 years in jail and would be fined as much as $10,000. This shocked him, leaving him scared - too scared to even attend his daughter's graduation from Lackland Air Force Base in San Antonio, fearing that there could be a warrant out to arrest him. "I'm innocent here," he said, "other than losing my job and an inability to pay. I tried to get on a payment plan. If my intention was to duck and dodge, why would I even call them?" He continued to avoid his jail by writing letters to the DA, the state Office of the Consumer Credit Commissioner, and Marpast. He mentioned that the Texas Office of Credit Commissioner submitted his debt to the DA for "collection purposes".
Source: https://www.texasobserver.org/cash-fast-how-taking-out-a-payday-loan-could-land-you-in-jail/

(2, 3)

107. Christina McHam took out a $200 loan from Cash Biz, near Houston, but was unable to repay it. She was arrested in November 2012 and charged an additional $305 for court costs and other fines. She "paid off" her debt with one night in jail.
Source: https://www.texasobserver.org/cash-fast-how-taking-out-a-payday-loan-could-land-you-in-jail/
(2, 3, SL)

108. An anonymous man, a veteran who had served in the military for 23 years, was being charged by the Potter County Attorney for a payday loan he could not repay. His wife wrote to the state Office of Consumer Credit Commissioner, "My husband is a good man! He has never done anything wrong, he fought for this country for 23 years … and now the Potty [sic] County Attorney wants to prosecute him for a payday loan."
Source: https://www.texasobserver.org/cash-fast-how-taking-out-a-payday-loan-could-land-you-in-jail/
(2, 3)

109. An anonymous borrower repaid $800 on his $400 payday loan after 70 days. However, he was still in dire need of money, and took out another $500 loan the following day. Again, the next day he took out a $1,000 loan, as he was still struggling to afford his basic living expenses. He paid $2,051 back on that loan 70 days later. He took out another $1,000 loan, and a $600 loan from another store. By this time, he had paid $3,000 interest on these loans, in addition to the $2,500 principal amount.
Source: http://www.standard.net/Guest-Commentary/2016/08/07/paydaylenders-Ponzischeme-fraud-loans-column-Winward
(1, 2)

110. "Perry Green, 30, took out a $300 payday loan that soon cost him $1,000 in interest and other fees. By taking out this one loan, he fell into a three-year debt trap. He took out multiple loans after the initial $300 loan. Originally, he needed the loan to afford his rent, thinking a payday loan was the only option."
Source: http://www.miunited.org/payday-loans-target-those-with-no-cash/
(1, 2)

111. Leonard Abbot, a 53-year-old security officer at the Department of Public Safety at the Texas State Capitol, had been warned of the dangers of payday loans. But after he owed some unexpected medical bills, he felt his only choice was to take out a $500 loan from a payday store. He says, "One thing that I didn't realize is, it doesn't matter how many payday loans you have, you still qualify for more." He adds, "I've always been against those things, the payday loans. I knew about them ahead of time and I knew it's easy to get caught up in their trap, but again, at the time I just felt like I didn't have any other alternative options." By May 2016, he had taken out four different payday loans totaling $2,500 and costing him $450 per month. He eventually converted his loans through the Predatory Loan Conversion Program, led by the Society of St. Vincent de Paul in Austin. "My favorite part about working at the Capitol is seeing the representatives coming in, and also just to see Texas law working at its best," he said. "I am hoping and will be praying that they will look at legislation to regulate this."

Source: https://www.texastribune.org/2016/06/18/federal-rules-could-tame-wild-west-texas-payday-le/
(2)

112. An anonymous veteran reported, "I took out a loan for thirty-four hundred bucks. I was gonna pay it back as soon as I got my paycheck. But when I realized I'd have to take out another loan to pay my living expenses, I let it ride. Even though I was paying more than $700 a month on the loan, with the high interest rate, it took forever to pay it off, and I ended up having to pay nearly double what I had borrowed." He got caught in a debt trap for several years, taking out new loans to pay off previous loans.
Source: http://www.vietnow.com/veteran-buyout-plans-and-other-bad-ideas/
(1, 2)

113. Jon Gomez of Hialeah, FL, received a $400 payday loan at a Money Superstore location, due in 14 days and a $41 service charge. "I paid back the $441, but the next day, I took out another $400 payday loan because I needed the money," Gomez told VICE. "I was in this vicious cycle for three months." Eventually, he didn't have enough money to cover one of his payday loan checks, and it bounced.
Source: http://www.vice.com/read/inside-the-battle-over-floridas-racially-charged-payday-loan-racket
(1, 2)

114. "In 2014, hunger drove Michelle Warne, a retiree in Green Bay, Wisconsin, to take out a loan from a local Check 'n Go. 'I had no food in the house at all,' she said. 'I just couldn't take any more.' It took her two years to pay off that loan. Then she took out a second loan, which she has not paid off completely. Caught in a debt trap, she borrowed another $401, plus $338 to pay off the outstanding balance. According to her truth-in-lending statement, paying off this $740 will cost Warne $983 in interest and fees over 18 months. Warne's APR on her so-called installment loan was 143%. 'We need better laws,' said Warne, 73. 'Because when they have something like this, they will take advantage of anybody who is poor.' Warne never applied for a standard personal loan from a bank or credit union, which offer loans at a fraction of the interest rate she paid. She was positive a bank would not lend to her, she said, because her only income is her Social Security retirement. For now, Warne said she has no way to pay off her loan. She has made one payment of $101, but does not know how she will pay off the remainder of her debt, which with principal, interest, and fees will cost her $1,723. Warne's only income is a monthly $763 Social Security check. Warne said she would "never" borrow from a payday lender again, adding, "I wish I would have read the fine print."
Source: http://wisconsinwatch.org/2016/06/no-relief-from-wisconsins-565-percent-payday-loan-interest-under-new-rules/
(2, LT)

115. Ronnette Souza-Kaawa, 46, lives in Waianae, HI and works in administrative services at an elementary school. Her family faced financial difficulty when her teenage daughter had a baby, so she simply went down the road to Easy Cash Solutions to take out a payday loan. Souza-Kaawa says she has taken out roughly a dozen payday loans in the past two years, ranging from $150 to $400. She says she'd always strive to pay them off before her next paycheck, but wasn't always able to do so. "If I borrowed a high (amount), I'd pay some off and re-borrow only a little," she says. Today, Souza-Kaawa owes roughly $1,470 from two recent loans. She is learning

budgeting and financial management strategies from a nonprofit called Hawaiian Community Assets. Today, Souza-Kaawa views payday lenders as a last-ditch option for many families. “It’s there when you need it,” she says, adding that thanks to financial counseling, she’s become savvy to what she now describes as their “hideous” interest rates. “If don’t need it, don’t take out a loan,” she says. “Don’t go borrowing $500, just because you can."
Source: http://www.hawaiibusiness.com/payday-lenders/
(1, 2, SL)

116. Toniette Brown from Alabama needed her first payday loan to afford prescription medicine for her daughter. Working as a part-time librarian, she did not have health insurance coverage to cover her family, or even herself. The payday lender gave her a $275 loan without any credit check. When she couldn't repay her loan by the next payday two weeks later, she took out another. This accrued to 12 loans across 4 different lenders, both in Alabama and online. She frequently had 3 to 5 loans at once. She was eventually in $4,288.96 worth of debt. "I couldn't pay them because I was already living on an income that was paycheck to paycheck," she said. When the interest and fees began to grow several times the amount of the original loan, she sought help from Gateway Financial Freedom and landed a full-time job. She has since almost fully paid back her loans, interest and fees, and says that she will never make the same mistake again
Source: http://www.al.com/news/index.ssf/2015/03/lifeline_or_financial_anchor_u.html
(1, 2)

117. Yolanda Roth, of Robbinsdale, Minnesota, took out a payday loan when she lost her job. She had to accept a lower-paying job and needed some extra money to afford her rent. “My check wasn’t quite enough to pay it off and still live, and I ended up racking up a lot of debt because of fees and so on,” Roth said. “I eventually paid it off, but it took a very long time.” Her original loan was for a couple hundred dollars, but ended up costing her a total of $1,500 over the next six months. She describes this experience as "very unpleasant" and "extraordinarily stressful." However, she understands that there is risk associated with taking out these types of loans. “I felt like I understood what was expected and I could definitely do it,” she said. “I was just in a desperate situation, or what I thought was a desperate situation.”
Source: http://post.mnsun.com/2015/10/12/faith-leaders-protest-payday-loan-practices-in-robbinsdale/
(1, 2)

118. Reverend Stevie Wakes, a Baptist minister in Kansas City, Kansas, received a payday loan of $500 that he thought he could pay back in two weeks. "We thought it was short-term," he said. He thought he would get a higher-paying job soon enough, but wasn't able to. He kept returning to the store to take out more loans every two weeks, and four months later had accumulated $1,250 in debt. He says that he renewed his loans about ten times, with an APR of about 450%. As soon as he realized how quickly his debt he was racking up, he managed to save the money to pay off his debt. “I’d like to see them cap the rate so that no one has to experience that kind of robbery, which is why I support the campaign [for a 36% interest rate cap] 100 percent," he says of payday lenders. "It's a debt trap."
Source: http://www.kansascity.com/news/local/article300576/Alternative-arises-as-payday-loan-industry-comes-under-scrutiny.html
(1, 2)

119. “Michael” of Verona, WI, had taken out payday loans from a dozen stores. He began taking out payday loans after a company mailed him an offer to take out a loan for no charge, directly after he had repaid his car title loan. Soon enough, his debt grew as he continued to take out loans to repay previous ones. He says he felt like a "gerbil on a treadmill". The payday lenders began aggressively calling his personal references, which he provided when he applied for the loans, causing him even deeper feelings of shame and desperation. "It got to be where I felt like my hair was on fire," he says. He eventually declared bankruptcy, halting the fees on the loans.
Source: http://host.madison.com/ct/news/local/govt_and_politics/wisconsin-is-one-of-few-states-with-no-ceiling-on/article_4e3585bc-cda8-5be9-8bf0-7d6b6a02dfdf.html
(1, 2, 3, CT)

120. Janet is a part-time security officer. She took out a $300 payday loan to afford diabetes medicine, as well as her rent. She found herself in a debt cycle. She recalls, "I called and tried to set up a repayment plan with them. I was not aware that I could do that and when I found out that I could, I did talk with them. And the amount that they said I owe is $425, and they said that I could repay in 2 payments which was over $200. I asked them if they could stretch it out 2 more payments; something that would be a lot smaller. The lady told me that they could only stretch it out 4 for 4 payments, which a little over $100 per payment, which is a payment I still cannot afford to pay at this time." She was still in debt 6 weeks later. "It's very frustrating because it's like I'm more on interest than the actual loan itself... it's like I'm actually paying double."
Source: Texas Fair Lending Alliance, https://www.youtube.com/watch?v=HCOwaudHr3g
(1, 2)

121. Trudy Robideau from California received an $800 loan from a payday loan store. She wasn't able to repay her loan right away, and renewed it for a fee. "Ka-ching," Robideau said. "You're hooked. You can feel the hook right in your mouth. And you don't know it at the time, but it gets deeper and deeper." She soon turned to other payday lenders, racking up fees totaling thousands of dollars. "I was having to get one to pay another," she said. "It's a real nightmare."
Source: http://www.npr.org/2015/03/26/395421117/payday-loans-and-endless-cycles-of-debt-targeted-by-federal-watchdog
(1, 2)

122. Elise Robillard, a teacher and single mother, said she fell into a cycle several years ago of taking short-term, high-interest loans that ultimately played a role in her decision to file for bankruptcy. “I spent the better part of 15 years stuck in a cycle of debt because of the initial payday loan that I took out,” Robillard said.
Source: http://www.koat.com/news/nm-supreme-court-exorbitant-payday-loans-violate-state-law/26688316
(2, 3)

123. In 2008, Joy Young and her newly immigrated husband were making only $30,000, in Woonsocket, RI. She and her husband stretched their income to cover their living expenses and their monthly payments on a home equity loan that paid for house repairs and a used vehicle. She received $450 from Advance America, which had to be paid back in two weeks, plus a fee of $45. Two weeks later, she paid her $495 debt, but was forced to borrow again to meet her

monthly expenses. She was now caught in the debt trap, borrowing a third and fourth loan. Every two weeks, Young spent two hours on a Friday afternoon waiting in line to pay off her loans and borrow again. Advance America pocketed $360 in fees each month from her alone. "Every time I got another loan, I thought it would help me in the short term," Young says. "But there was no way out. I felt like I was in prison. Any time I would talk about my story I would start to cry. It has been a horrible, horrible last few years." She was weeks away from foreclosure when she received a loan from Capital Good Fund, a microfinance institution that began extending small loans at 30% interest for a twelve-month term. She was able to pay off three of her payday loans with their help and is slowly paying off the fourth.
Source: http://www.rimonthly.com/Rhode-Island-Monthly/October-2014/Reporter-Breaking-the-Payday-Loan-Cycle/
(1, 2, 3)

124. Christina Sarno in Warren, OH borrowed just $200 from a payday lender, but she quickly realized she could not pay back the principal or the interest. "After receiving constant calls and having the store manager show up at my house to try to collect the money I owed, I gave up. At this point I had developed a lot of interest on the loan and owed more than I could possibly pay back on my income," she said during a meeting at the Warren YWCA. She lost her car, but the Beatitude House of Warren helped her with housing and education to avoid falling into the payday lending trap again.
Source: Reprinted verbatim from http://www.vindy.com/news/2016/jun/28/women-tell-of-troubles-with-payday-lendi/
(2, 3, SL)

125. Tiffany Richardson, a resident of Houston, Texas, received a $5,000 car title loan, using the title to the 2005 Nissan Altima she bought for her mother as collateral. She fell behind on repaying the loan. She took out another car title loan for $2,400 using her 1999 Toyota 4Runner as collateral this time. The amount she owed skyrocketed to several times the original principal amount. "You're like a hamster on a wheel," Ms. Richardson, 43, said of repaying her ballooning debt, adding that she was "looking out the window every night" to make sure her cars had not been repossessed. One night, however, Ms. Richardson woke to see both cars being towed away.
Source: http://www.nytimes.com/2014/08/24/us/thousands-in-texas-lose-cars-amid-calls-for-loan-restrictions.html?_r=0
(1, 2, 3, CT)

126. Maranda Brooks, a records coordinator at a Cleveland college in OH, took out a $500 loan to help pay an electricity bill. Two weeks later, the full amount of the loan plus a $50 fee were deducted from her usual $800 paycheck. To cover expenses for herself and her four children, she took out another loan, falling into a debt trap that lasted almost a year. "It was a nightmare of going around and around," said Brooks.
Source: http://www.chicagotribune.com/chi-payday-loans-rules-20150202-story.html
(1, 2)

127. According to her social worker, Sandra, is an illiterate 33-year old single mother in Missouri with a third-grade education. Sandra received a payday loans from King of Kash. Her only income was her Social Security disability check. Sandra took out a loan for $300 at an APR of 342%, which cost her $1,080 to pay off.

Source: https://www.youtube.com/watch?v=2enmyz-7CQo
(2, LT)

128. After his daughter returned from serving in Iraq and asked for financial help to relocate her family, Preston White, 63, took out a title loan on his pickup truck from a store in Killeen, Texas. The 30-day, $4,000 loan carried a 375% APR. White had already spent his life savings on paying for treatment for his wife's pancreatic cancer and soon realized that his fixed income left him only enough money to cover the fees, not the principal. He recognized the cycle of debt: "In four months, I could have paid more than what I went to the store for in the first place, and still owe the original loan amount," he said. "Never in my wildest imagination did I think that such a loan product could even exist. You assume the system will have usury laws and protect you from such things…Everybody's got to make a profit but there should be no place for usury in the 21st century." He was ultimately able to retire the debt by taking out a loan at 16% APR through a credit union.
Source: Gogoi, P. (2010). "Costly cash: How a retiree wound up with a 375% loan." *Daily Finance.* Available at http://aol.it/16TVtof (viewed 5/24/13).
(1, 2, CT)

129. Alicia and Clinton Lummus of Conyers, Georgia, took out a $525 car title loan after injuries forced them both to stop working. Over eight months, they made payments totaling $1,056—more than twice the amount borrowed—but ultimately fell behind on payments. The lender repossessed the vehicle, worth $14,000—and was able to keep any excess money from the sale of the vehicle, since Georgia law allows the lender to do so.
Source: Kirchhoff, S. (2006). "Some consumers run into big problems with auto title lending." *USA Today*. Available at http://usat.ly/124EbDR (viewed 5/25/13).
(2, CT)

130. Shanell White of Elk Grove, California, needed money to pay for rent after her expenses increased when she began to care for her neice. She took out a $3,900 installment title loan using her car—worth $12,000—as collateral. After having paid nearly $10,500 over three years, she was told she still owed the full principal that she had borrowed. The lender repossessed and sold the car yet still sent her a bill for the loan after. "To me, it's just modern-day loan sharking. People are being taken advantage of," she concluded.
Source: Said, Carolyn. (2013). "'Car-title loans' a road to deep debt: Legislators weight capping high-interest 'car-title loans.''' *San Francisco Chronicle*. Available at http://bit.ly/ZgEx6D (viewed 5/30/13).
(1, 2, CT)

131. Sean received a $1,500 car title loan, which he renewed over 40 times—paying over $11,500 in interest—before receiving help from family to pay off the principal. He said, "I was too embarrassed to ask my parents for the initial loan money, [but] ended up borrowing money from them to make some of the payments and ultimately had to ask them to pay off the whole loan, after losing tons of money along the way."
Source: Martin, N. & Adams, O. (2012). "Grand theft auto: Repossession and demographic realities in title lending." *Missouri Law Review*. Available at http://bit.ly/Z12wSX.
(1, 2, CT)

132. Caroline O'Connor, a 30-year-old hospital lab technician, was in need of $1,000 to cover her rent and electricity bills. When she saw a television commercial advertising how to get cash from your car in the form of a short-term loan, she believed she had found relief. The loan carried a 171% APR. Two years of being stuck in the debt cycle, the lender seized her car. ""These companies put people in a hole that they can't get out of," Ms. O'Connor said.
Source: http://dealbook.nytimes.com/2014/12/25/dipping-into-auto-equity-devastates-many-borrowers/
(2, CT)

133. Ken Chicosky, a 39-year-old Army veteran, received a $4,000 car title loan from Cash America, a in his Austin, Texas, neighborhood. The loan came with an APR of 98.3%. He says he knew the loan was a bad decision when he received his first bill detailing that he would have to pay a total of $9,346 on the $4,000 loan over 24 months. Even though the City of Austin limits loan terms to three months, according to the New York Times investigation, Cash America made the 24-month loan term by having Mr. Chicosky filled out the paper work and pick up his loan check from a store in a nearby town. Chicosky, a college student, said the loan has sunk his credit score and he uses some of his financial aid money to pay his title-loan bill.
Source: http://dealbook.nytimes.com/2014/12/25/dipping-into-auto-equity-devastates-many-borrowers/
(2, CT)

134. Derek Drewery was caught in the debt trap beginning in 1996, when he was stationed at Wright-Patterson Air Force Base in Ohio. He received a payday loan of a few hundred dollars at a payday lender near the base. When he returned to the store to repay the loan, he realized that with interest and fees, he owed a lot more than he had borrowed. "I had to borrow again to pay that back, and had to borrow again to pay that back," Drewery says of getting trapped in the debt cycle. "I got into the real churning situation to borrow this week to pay for last week." To help pay off the loan, Drewery cut back on food, even sharing his last box of Cheerios with his Jack Russell terrier until his father found out and sent him grocery store gift cards. He now works as an electrician and is the pastor of a church which has joined a coalition of Christians to oppose predatory lending.
Source: http://www.nytimes.com/2016/06/11/us/full-faith-and-credit-christian-groups-unite-against-predatory-lending.html
(1, 2, 3)

135. Mr. Sanchez, a veteran who served in Iraq as an infantryman in 2004, returned home to his wife and two daughters but suffers from Post-Traumatic Stress Disorder. When he needed a bit more cash to make ends meet, he took out a car title loan to pay for his family's monthly bills. He had already taken out a $2,500 car title loan earlier in the year, paying $350 per month on the loan. After 10 months of paying a total of $3,500 in fees, he could no longer afford the loan and sold his family's second vehicle in order to continue paying on the original title loan. Unfortunately, a few months later the Sanchez family was in a similar situation, unable to make the regular monthly payment of $350 in interest-only payments while still owing the original $2,500 principal. He couldn't lose his second car to the predatory lenders as it was the only way his wife could get to her job. Desperate for a solution, Mr. Sanchez turned to Helping Hands Ministry, a Texas social service organization that provides opportunities for financial empowerment to veterans and working class families. The organization was able to help the Sanchez family pay off their debt.

Source: https://medium.com/@stoppaydaypreds/payday-lenders-target-veterans-fcfe91b92c86#.wl764nkqu
(1, 2, CT)

136. Susan Fronczak, a 60-year-old woman from Florence, Arizona, secured a $2,000 car title loan using her 2007 Nissan as collateral. Fronczak had six months to pay off the loan, at an APR of 182%. Her loan contract provided for 11 interest-only payments followed by a balloon payment of $2,100, for a total repayment amount of $3,860. By month five, she had paid pack $1,920 and the lender said she still owed the full $2,000. When Fronczak could no longer afford the monthly interest-only payments, her car was repossessed. Getting it back cost her $1, 100. Fronczak continued to struggle after refinancing the loan, and it is estimated that she had paid close to $5,000 on the $2,000 loan by the time she got help. Not only had she paid over double the original loan amount, but she was still facing threats of repossession from the lender. The company returned Fronczak's car title and released her from the debt only after she filed a complaint with the Consumer Financial Protection Bureau.
Source: http://www.azcentral.com/story/news/local/mesa/2014/06/20/auto-title-lenders-give-additional-high-risk-option/11061451/
(2, 3, CT, LT)

137. Elaine is 74 years old and lives independently in a small, one-bedroom apartment. She receives social security and a small monthly pension totaling $1,278. She was struggling with her bills. Elaine came to one of the Catholic Charities of Northeastern Kansas' Emergency Assistance Center (EAC) for help with an electric bill. During her meeting she shared that she had payday loans totaling $1,725. She had these payday loans for years and, unfortunately, her low income just would not cover the loans to be paid off while still trying to take care of her daily living expenses and housing. Because of the high rate, Elaine was paying $275 per month just in interest on all of her payday loans. Elaine shared that she had not told her grown children because she was ashamed to let them know she had gotten into this situation in the first place. Catholic Charities was able to assist Elaine through its Kansas Loan Pool Project (KLPP). By converting her high-interest payday loan into a new, low-interest fixed loan, Elaine now has a manageable payment with an actual payoff date. Elaine participates in monthly financial coaching through the KLPP program. Her bills are now up to date and she has set some realistic financial goals. Elaine has newfound hope through the help of Catholic Charities and the KLPP program. "It's a relief to know that I now have enough money to pay my bills AND go to the grocery store." Elaine shared.
Source: Catholic Charities of Northeastern Kansas
(1)

138. Tiemeyer White, a 33-year-old Navy veteran from Texas, full-time electrical engineering college student, and father, took out a car title loan more than a year ago. When the federal government shut down due to a budget impasse in October 2013, White didn't get his Post-9/11 benefits or work-study pay for his Department of Veterans Affairs job for almost two months. As a result, he fell behind on his bills, and the car title lender began calling him several times a day both at work and at home, demanding loan payments. "I tell them, I understand you're doing your job, but I also understand that your job – you make your living off of making my life worse," White says. "That's how I felt that moment." Two weeks later, his 2003 Dodge pickup truck was repossessed from his school's parking lot.

Source: https://www.nerdwallet.com/blog/banking/banking-news/car-title-payday-loans-trap-unwary-veterans/
(2, CT, LT)

139. Homeless veteran Mel Hair hitchhiked to Sioux Falls, South Dakota, from Minnesota a few years ago. He stayed at a shelter to get back on his feet. When Hair and his girlfriend were able to get their own apartment, he received a car title loan for $200. One title loan turned into three loans amounting to more than $2,000. He has been making monthly payments of $430 per month for the past two years.
Source: http://www.keloland.com/news/article/featured-stories/the-high-price-for-small-loans-
(1, 2, CT, SL)

140. Kim Brust of South Dakota started taking out payday loans three years ago. At the time, her social security and disability checks were not enough to cover her monthly expenses for the children and other family members who had moved in with her. She fell into a cycle of debt, taking out a total of eight loans from four different lenders in Sioux Falls. The interest rates range from 247 percent to as much as 608 percent over the course of a year. "I fell into that same trap and I know better. I'm not stupid, but I was stressing about money. I was wondering sometimes where the next meal was coming from," Brust said. "It just sneaks up on you and one day I just laid out all the papers and I go, 'Oh, my Lord what have I done.'"
Source: http://www.keloland.com/news/article/featured-stories/the-high-price-for-small-loans-
(1, 2)

141. Eddie Dorman of Duval County, Florida, has been caught in a vicious debt trap for years. He uses one payday loan to pay for another, and is currently fighting with a car title loan company in Gainesville that is trying to repossess his truck. "I would never do it again, if I ever get out from under this one." Dorman said. "Everyone has problems. I got behind on a payment, the next thing you know there is a wrecker in the front yard at 3 in the morning." With his truck title loan, the company made him take out a $700 insurance policy to cover the company. “It covers them and yet it does not cover you,” Dorman explained.
Source: http://www.news4jax.com/news/borrower-beware-title-payday-lenders-are-back
(1, 2, CT)

142. Lara was a young mother who stayed home to raise three children while her military husband worked full time. She worked jobs when she could, but the family still found themselves strapped for cash. They reluctantly took out a payday loan of $200 to manage the bills until their next paycheck. When payday arrived, the lender wanted $300. They paid the $300 but came up short on their next payment, so they took out another loan and quickly found themselves caught in the debt trap. “I kid you not, we did that dance for close to six months,” Lara said. “It was horrible. Just unbelievably horrible.” Ultimately, Lara had to beg her parents to help get them out of the cycle, but she knows not everyone has a safety net to fall back on.
Source: http://www.tcdailyplanet.net/new-guidelines-nonprofits-help-curtail-predatory-payday-loans-in-minnesota/
(2, SL)

143. Gordon Martinez: "About 8 years ago, I was struggling financially. I had a family and was starting out a new job in sales, transitioning from being a band director. I used my most prized possession, a tuba valued at $8,000, as a security against a $500 pawn loan to help make ends

meet. I made payments faithfully every 2 weeks, fighting Friday rush hour traffic, trying to stay afloat. I could only ever cover interest fees, none of my payments hit the principal. In the midst of making those payments, I took out another loan from another payday storefront, and even went online to several payday loan [stores] trying to cover my bills. Avoiding pending eviction and keeping my family's finances afloat, I felt hopeless, and that I was failing to uphold my responsibilities. I was trying to do what was best for my family, only to be taken deeper and deeper into a financial mess created by products that were advertised to help. Ultimately, all of the loans and fees took too much of my paycheck and I couldn't keep up. I defaulted on the loans. We lost our residence, I lost my prized tuba, and the strain led to the loss of my marriage, destroying our family. I found myself answering an online ad to rent a couch in a one room studio apartment with all of my worldly possessions housed in two plastic storage tubs. I have never felt so low in my life. I felt isolated, ashamed and lonely. I did what I had to do to survive, but I never imagined I would hit such a low. Thankfully, in the midst of this, I found my church and they helped me get back on my feet. I started sharing my story and exposing what I feel are predatory lending practices that run counter to our faith. I felt powerless while I was trapped in payday loans, but now I work with Faith in Texas to help organize other borrowers to help them so that what happened to me, doesn't happen to them. And to advocate for an end to the debt trap I found myself in. My experience is not uncommon. In a recent Faith for Just Lending survey with Clergy and Congregations, 86% said payday loan products were more harmful than helpful. Common themes raised in interviews with Congregations included a cycle of debt, and loss of a major asset such as a home, family, stress and shame. All of which I lived."
Source: https://vimeo.com/167331364
(1, 2, 3)

144. Diana LaCroix, a 63-year-old widow living off of her husband's Social Security survivor's benefits, received a $300 payday loan. It took her three or four months to pay off the small $300 loan. Then, she found herself caught in the debt trap, borrowing $50, $75, or $100 at a time. She is still borrowing money to make up for the loan payments that are eating into her fixed monthly budget, explaining, "I'll probably have to borrow a little more next month to get caught up on bills."
Source: http://www.omaha.com/money/days-of-the-payday-loan-could-be-numbered-with-new/article_0565b988-8356-5fb5-acf9-d3a076e250a0.html
(2)

145. John Miller, an attorney in Missouri, tells the story of his friend who had been struggling financially and turned to a payday loan store as a last resort before taking his own life.
Source: https://www.youtube.com/watch?v=t2-UlIrs95A
(3)

146. Richard Kitterman, a retired Master Sergeant and former Chief of Consumer Affairs Office, tells the story of a solider: "I remember one particular story, I'll never forget it. She was a young soldier, and she was a good solider. She was a single mother, she was doing her best to meet her obligations to the Army, and to raise her child. But she was facing in some cases, some nearly insurmountable obstacles: she had to have daycare, she had to have babysitting for her kids when she worked late. And she found herself getting her first payday loan and then another, and then another... and it got down to where on payday, her entire check disappeared. It was gone to pay back payday loans. And so her payday was spent standing in line at several different payday

loan offices to get new loans or to renew existing loans. And each time paying healthy loan fees to get that money. And she eventually…and she was a responsible solider. Most of the soldiers that get involved in this are really good, decent soldiers, good people who want to pay their bills, understand their obligations, but they just have more month left at the end of a paycheck. So they just see this as a quick fix; something they only have to do once, and that was the case with this young lady. She just got in over her head. And I remember after she got straightened out and things were going good and she continued to work to pay off those loans, even though she could have walked away and there wasn't really much the payday lender could have done, but that's not the kind of person she was. And I remember her telling me, 'Sergeant Kitterman, I felt like I was in a black hole. Every morning I woke up, every night I went to sleep, I was sick to my stomach over what am I going to do? How am I going to work this out?'"
Source: https://vimeo.com/143323466
(1, 2)

147. Paula, who lives in Texas with her husband and 3 children, took out some payday loans through lenders on the Internet after her husband lost his job. After he started working again, they were never able to get out of the debt trap due to excessive rollover fees. At one point, $800 a month of the family's money was going towards payday loans.
Source: Fact Sheet: *The Victims of Payday Lending*, http://www.responsiblelending.org/issues/victims-payday
(2)

148. Tennessee resident Natalie has paid over $4,000 in fees for $800 worth of loans. Each time that she thinks she is has paid down the principal, the lender informs her of more fees that have been piled onto her already steep debt. Additional fees are added every time that she pays late.
Source: Fact Sheet: *The Victims of Payday Lending*, http://www.responsiblelending.org/issues/victims-payday
(1, 2)

149. Maria took out one payday loan three years ago. Now, she is struggling to handle five payday loans and is over $3,000 in debt. Most of her budget goes to paying fees to rollover her loans, leaving little money for her to live on the rest of the month. She cannot afford to pay them off.
Source: Fact Sheet: *The Victims of Payday Lending*, http://www.responsiblelending.org/issues/victims-payday
(1, 2)

150. According to a 2013 *New York Times* investigation, "Johanna Pimentel said she and both of her brothers had taken out multiple title loans. They are everywhere, like liquor stores," she said. Ms. Pimentel, 32, had moved her family out of Ferguson, Mo., to a higher-priced suburb of St. Louis that promised better schools. But after a divorce, her former husband moved out, and she had trouble paying her rent. Ms. Pimentel took out a $3,461 title loan using her 2002 Suburban as collateral. After falling behind, she woke up one morning last March to find that the car had been repossessed. Without it, she could not continue to run her day care business."
Source: http://dealbook.nytimes.com/2014/12/25/dipping-into-auto-equity-devastates-many-borrowers/

(2, CT)

151. Knoye Jackson of Goodyear, Arizona received a $700 car title loan, which then ballooned to $7,000 in three years due to the high interest rate and additional fees. The $80 Jackson was paying each week was only paying the interest she was accruing—none of it went toward paying down the principal. Ultimately, Jackson's car was repossessed and she filed for bankruptcy. She wishes she had just called the utility company she owed money to and arranged a payment plan directly with them rather than taking out a loan. Of her experiences, Ms. Jackson says, "I think they trap you because they make it seem like, come and get this good money so you can get caught up on your bills, but you never get caught up. They're getting richer by charging you all of this money. We're getting poorer." Those loans don't bring you out of debt, they put you in debt.
Source: http://www.abc15.com/news/state/woman-caught-in-flex-loan-cycle-speaks-out
(1, 2, 3, LT)

152. A single mother in Georgia took out a $450 loan from Atlanta Title Loans to help make her utility payments. After making four monthly interest-only payments of $112.50, she was unable to keep up with the payments and found the firm had repossessed her car in the middle of the night. Without access to her vehicle, she could no longer get to work.
Source: http://usa.streetsblog.org/2010/11/10/driven-to-the-poorhouse-how-car-title-lenders-prey-on-americans/
(2, 3, CT)

153. Jamela Lott, a single mother of five, was falling behind on her rent and borrowed $900 from Loan Max in Akron, Ohio. She used her 2001 Oldsmobile as collateral for the loan. After paying $938 on the original $900 loan, she was unable to keep up. Lott was told she still owed more than $1,600 or had to face repossession of her car. Shortly thereafter, she and her children became homeless and entered the program of Family Promise of Summit County, which provides temporary shelter to homeless families and offers assistance. Harry McKeen, a local attorney, accepted Lott's case via Legal Aid, and settled with LoanMax to write off Lott's debt. Meanwhile, readers donated more than $1,160 to help Lott get into a rental house in West Akron.
Source: http://www.ohio.com/business/taking-action/akron-woman-works-through-financial-situation-involving-lender-1.470027
(2, 3, CT)

154. Norma Poalson, 68, of Akron, Ohio, took out a $600 car title loan from LoanMax for a now-deceased friend who needed money for a chair lift. When she fell behind on her payments, the company rolled over her loan for the same amount. Poalson says she has paid about $2,200 on the loan and still owes another $1,690 or faces repossession.
Source: http://www.ohio.com/business/taking-action/akron-woman-works-through-financial-situation-involving-lender-1.470027

155. Rasheeda Jackson of Akron, Ohio, took out a $600 car title loan. She fell behind on the payments, and her car was repossessed a few months later. To get her car back, Jackson had to pay $890, including $600 to a repossession company. The company charged her storage fees and tried to ask for money to get things out of her car if she didn't pay the full fees.
Source: http://www.ohio.com/business/taking-action/akron-woman-works-through-financial-situation-involving-lender-1.470027

156. Tony Williams of South Carolina was strapped for cash and took out a $715 car title loan. He says it was easy and he was desperate. “They just ask what your income is, and whatever you tell them is what they go by,” said Tony. However, there is a catch. The annual percentage rate on his loan is 360%. So, of the $715 dollars he and his wife borrowed, they'll end up paying back nearly four times that amount, unless they’re able to pay it off sooner. If they don't, their car gets repossessed. “It’s like you're caught in a revolving door and you can't get out,” said Tony. At Max Cash Title Loan in Spartanburg, the max APR was listed as up to 396%. At North American Title Loans, it was 372%.
Source: http://wspa.com/2014/05/01/driven-to-debt/
(2, CT)

157. Roger Irby of North Akron, Ohio, faced financial difficulty when he broke a bone in his neck which hindered his ability to work full time. He turned to Loan Max for a $500 car title loan, using his 13-year-old truck as collateral. Loan Max required him to pay the loan back in 30 days, along with $200 in interest. A month later, the only way he could pay the loan off in time and have enough money to pay his family’s bills was to take out another loan—this time, for $1,000. The loan is due in 30 days, plus $295 in interest. Irby has paid almost $500 to borrow $1,500 for two months. “They are modern day loan sharks,” Irby said. “Me and my wife are trying to pay this bill off and we don’t ever want to mess with them again. Ever.”
Source: http://www.ohio.com/news/local/need-emergency-cash-cuyahoga-falls-group-considering-an-alternative-to-payday-lenders-1.505993
(2, CT)

158. In July 2010, Army Staff Sergeant Jason Cox of Columbus, Georgia, faced a family emergency. He obtained a $3,000 loan with his car title as collateral from Alabama Title Loans in Phenix City, Alabama. The loan carried an APR of 146% and was required to be paid off in 30 days, or Cox would have to pay the interest portion and renew the loan to set the due date back another 30 days. Unable to pay what eventually grew to approximately $4,500, Cox paid between $330 and $417 each month. After nearly a year of monthly payments, Cox could no longer afford to pay the monthly fee, none of which went to pay down the principal of the loan. He stopped making payments and his vehicle was repossessed at his home on the Fort Benning military base. That’s when Cox felt something was amiss, and visited Columbus attorney Kyle Fischer of the law firm Day Crowley. As a former JAG lieutenant in the Army, Fischer knew many of the laws pertaining to military active duty personnel and soon realized that it appeared Cox’s loan was in violation of the 2007 Military Lending Act, implemented by Congress to protect active duty personnel from predatory lending. Barnes and Bevis agreed with Fischer, and in November, they filed a class-action lawsuit against Community Loans of America and Alabama Title Loans. “I definitely feel like I was taken advantage of,” said Cox, who has served three tours in Iraq during his 11 years of service and earned the Purple Heart for a foot injury he received during enemy gunfire. “I had no clue this law was in place, and nothing was explained to me.”
Source:
http://www.barneslawgroup.com/Portals/0/Veteran%20challenges%20title%20loan%20company%20in%20courtmdj.pdf
(2, 3, CT)

159. In 2012, Tammy in Colorado received a payday loan from Speedy Cash, after seeing a commercial and facing trouble paying rent. She now says, "I would be better off if I never had

one." She had a job and thought she could pay the loan back with no problem. She was approved for the loan in less than 10 minutes and given $500 based on her income. The fee did not seem too bad added on top of the $500 loan, and the payback terms seemed okay, until it was time to make her first installment payment. She was going to be $50 short. She called Speedy Cash to tell them to not send her check to the bank because the total amount was not in her account. She made the request for them not to send the check for another 7 days, but the check was sent anyway. She was charged an NSF Fee from Speedy Cash and a Retun Check Charge from the bank, and her bank account went into the negative. Tammy recounts, "This became my downward spiral. I then went to another payday lending company to obtain another loan and was granted." With the second payday loan, she paid the $125 installment plus $35 NSF from the first payday loan. She said, "However, the next payday from my job came around and I was still in the same position again. I was short now on both payday loans and I could not figure out how to settle it, then I got my third payday loan from another payday store. These loans happened all in a timeframe of less than 90 days. Then the awful phone calls began and I stated to dodge all the calls. Letters began and I did not try to address them because I knew that I am now unable to pay any of them due to the all the fees applied from all the payday lending sources. The end result to my story was that since I met payday lenders my life resulted in filing Chapter 7 bankruptcy. I lost my home, car and became homeless and also my credit was damaged. Even today through my email I am now getting threats to garnish my income, and now that I am disabled I cannot afford them to be able to do this to me. This is all because the first payday lender would not honor my request to hold off for a week so I could get the 50.00 and not have to seek other lenders to rob peter to pay Paul. Even today this is a nightmare!"
Source: Story on file with CRL
(2, 3)