

**Comments to the Consumer Financial Protection Bureau
on Payday Lending Abuses
CFPB-2012-0009**

Submitted on behalf of the following organizations:

**Center for Responsible Lending (CRL)¹
Consumer Federation of America²
National Consumer Law Center (on behalf of its low-income clients)³
Americans for Financial Reform⁴
Center for Digital Democracy⁵
Consumer Action⁶
Consumers Union, the public policy and advocacy arm of *Consumer Reports*⁷
Insight Center for Community Economic Development⁸
Leadership Conference on Civil and Human Rights⁹
National Association of Consumer Advocates¹⁰
National People's Action¹¹
Neighborhood Economic Development Advocacy Project (NEDAP)¹²
Public Citizen¹³
California Reinvestment Coalition¹⁴
Community Legal Services, Inc.¹⁵
New Jersey Citizen Action¹⁶**

23 April 2012

Introduction and Summary

We are pleased to submit these comments on payday lending abuses in response to the Consumer Financial Protection Bureau's request after its January field hearing in Birmingham, Alabama. We appreciate the chance to comment on the debt trap inherent to payday lending, and we are grateful for the supervisory guidance on payday lending that the Bureau has issued since the Birmingham event.

In these comments, we analyze research results to demonstrate the following points:

- **Payday loans are structured to create a long-term debt trap.** Although payday loans are marketed as a way for borrowers to take on short-term debt to cover emergencies between paychecks,¹⁷ the reality is in fact very different. The product's structure—lack of underwriting, high fees, short-term due date, single balloon payment, and having access to a borrower's checking account as collateral—results in most borrowers having no choice but to take out more loans to pay off the initial loan. In fact, some lenders offer no-cost loans to new borrowers knowing that even with no fees charged on the first loan, they can count on most borrowers needing to take on additional (full-cost) loans to pay back the original fee-free loan.
- **Over 75 percent of payday loan volume is because of churn—borrowers having to take out additional loans to pay off the original debt.** This debunks the industry's argument that the large annual loan payday loan volume—estimated to be \$29.8 billion for storefront payday and \$14.3 billion for Internet payday in 2012¹⁸—is evidence that there is a strong demand for payday lending. Loan volume does not represent true demand but rather is a reflection of trapped customers.
- **Extended payment plans are not an adequate solution.** The industry often points to extended payment plans as more evidence that payday loans do not create a debt trap.¹⁹ The truth is that the economic incentives of the payday loan business model are stacked against widespread utilization of these extended payment plans, and data reveal that in fact very few eligible customers are ever placed into one.
- **Payday loans result in long lasting financial harm .** The debt trap and loan churn inherent to payday lending creates great borrower harm. Nearly 50 percent of borrowers default on their payday loans, triggering more fees and placing their bank accounts at risk. These borrowers face potential court action, wage garnishment, or having their debt sold to a collection agency. Payday loan use is associated with higher rates of bank account closures, delinquency on other debts, or even bankruptcy.
- **Bank payday lending and internet payday lending cause the same harms as their storefront counterparts.** Payday lending leads to long-term indebtedness and harms borrowers regardless of whether borrowers receive them from storefront lenders, banks, or online.
- **Payday lenders target communities of color.** For example, payday lenders are nearly eight times as concentrated in neighborhoods with the largest shares of African Americans and Latinos compared with white neighborhoods. In California alone, they drain \$247 million in fees from communities of color.

- **There are a wide range of options for consumers to bridge a budget gap without creating a spiraling debt trap.** Payday lenders like to claim that low-income families have no options other than payday loans. This is simply not true. Low-income consumers report taking advantage of affordable small-dollar loans available in the marketplace or non-credit other options, such as pursuing payment plans with creditors, emergency assistance programs, and budgeting to eliminate unnecessary expenses. Payday loans push these safer options further out of reach.

Research from the University of North Carolina supports the notion that the debt trap of payday lending creates so many long-term problems that borrowers are better off without having access to these abusive loans.²⁰ The study, which reviewed the impact of North Carolina’s rate cap that effectively eliminated storefront payday lending in the state, found that the absence of payday lending has had no significant impact on the availability of credit.²¹ Moreover, it has made helped more households than it has harmed.²² Nearly nine out of ten North Carolina households characterize payday lending as a “bad thing,” and this overwhelming proportion holds true for households that have experienced financial hardship or that have previously taken out a payday loan.²³

Given the structural problems with payday loans and the long-term negative consequences payday borrowers face, we urge the Bureau to use the full panoply of tools available to it—including supervision, enforcement, and rulemaking—to end the debt trap caused by these loans.

Payday Loans Are Structured to Create a Long-Term Debt Trap

CRL’s 2009 research paper, *Phantom Demand*,²⁴ demonstrates that the structure of payday loans—lack of underwriting, high fees, short-term due date, single balloon payment, and having access to a borrower’s checking account as collateral—results in a long-term debt trap. It also highlights the speciousness of the payday industry’s argument that the high volume of payday lending represents strong demand for these loans.

In the study, researchers analyzed loan-level data obtained through public records requests to state regulators regarding all borrowers who take out more than one payday loan a year. The study sought to understand whether the subsequent loans were taken sporadically for separate occasions, or whether the first loan was for access to capital and the subsequent loans were necessary because the borrower could not afford to pay off the original payday loan (i.e., loan churn). An example of loan churn would include a borrower taking out a payday loan, paying it off on the next payday, and then needing to take out a new payday loan during that pay period because he or she couldn’t afford to pay for basic living expenses. As a result, the researchers assumed that any loan made within the same two-week period in which a previous loan was paid off represented loan churn. The results are conservative, as many bills (e.g., rent, utilities, car payments, and the like) are paid monthly, and so loans made within a month of paying off a payday loan are likely to be because of loan churn.

The study found the following:

- **For loans that went to repeat borrowers, the great majority were originated shortly after a previous loan was paid back, with half of new loans opened at the borrower’s first opportunity and 87 percent opened within two weeks.**

- **Borrower churn inflates overall payday loan volume by over \$20 billion each year, with 76 percent of all payday loans generated by the debt trap.²⁵ Only a small fraction of the total lending—\$6.6 billion—is not directly attributable to loan churning.**
- **This loan churn costs households \$3.5 billion in extra fees each year.**

These findings show that becoming trapped in debt is the rule rather than the exception with payday loans. We largely attribute this pattern to the way the product is structured: the lack of underwriting, high fees, short-term due date, single balloon payment, and having access to a borrower’s checking account as collateral. This point is illustrated by looking at the impact of repaying the average \$350 payday loan on a family’s budget over a two-week period, as demonstrated by the table below

A Two-Week Payday Loan Results in a Debt Trap, Even With No Fee²⁶

Income and expenses for payday borrower earning \$35,000/year	Cost of a Two-Week Payday Loan		
	\$0 per \$100 (free loan)	\$15 per 100 (391 percent APR)	\$20 per \$100 (521 percent APR)
Income and Taxes			
Income per half-month pay period	\$1,346.15	\$1,346.15	\$1,346.15
Taxes	\$16.42	\$16.42	\$16.42
Social Security	\$88.92	\$88.92	\$88.92
Income after tax	\$1240.81	\$1240.81	\$1240.81
Payment due on \$350 payday loan	\$350.00	\$402.50	\$420.00
Paycheck remaining after paying back payday loan	\$890.81	\$838.31	\$820.81
Household two-week essential expenditures			
Food	\$178.65	\$178.65	\$178.65
Housing	\$476.50	\$476.50	\$476.50
Transportation (insurance, gas, maintenance)	\$144.38	\$144.38	\$144.38
Health care	\$95.88	\$95.88	\$95.88
Total essential expenditures	\$895.42	\$895.42	\$895.42
Money remaining in paycheck (deficit)	(\$4.61)	(\$57.11)	(\$74.61)

Regardless of whether the payday loan is offered for free (as many initial loans are) or for \$15-\$20 per \$100 borrowed, a typical household will struggle to meet its basic obligations and repay the payday loan debt in a two-week period. Within one pay period, they have enough money to *either* repay their payday loan *or* meet very basic expenses, but they cannot do both. Many families will have other expenses not captured here, such as a car loan and child care, clothing, other debt obligations, etc., exacerbating matters. Thus, to make ends meet after paying back the first payday loan, a family needs to take out a new loan during the same pay period.

The False Promise of Best Practices

In response to clear evidence that payday loans create a long-term debt trap, the industry has pointed to its own “best practices” and some state laws that call for repayment plans, cooling-off periods, and renewal bans. CRL’s research report, *Springing the Debt Trap*,²⁷ found that these do not work to end the debt trap of payday lending.

Repayment Plans

The CRL report finds that repayment plans go virtually unused. The reason is that payday lenders have every incentive to keep borrowers out of these plans because loan churning is much more profitable. As a result, lenders structure these repayment plans to minimize the number of borrowers that receive them. For example:

- Although payday lenders are generally required to furnish borrowers with information about these plans, they have little incentive to cast these plans in a positive light.
- In at least one state with a payment plan provision, lenders tweaked their business model slightly to ensure that trapped borrowers did not trigger the eligibility requirements for payment plans.²⁸
- Lenders often structure the terms of a plan to be more expensive in the short-term for a borrower since they typically have to pay more to enter into a payment plan agreement than to simply flip their loan. For example, a borrower taking out a \$325 loan has to come up with \$94 to pay the first installment of a typical payment plan,²⁹ or \$52 to renew the loan (either directly or through a back-to-back transaction—repaying the first loan and then quickly taking out another payday loan to be able to afford living expenses).
- Even in the state with the most permissive statutorily-mandated repayment plan, only a small fraction of eligible loans are repaid using an extended installment plan.³⁰ Washington State’s law requiring the availability of a repayment plan at any time before a loan is in default and with no additional fee took effect in 2010. Out of 1,093,776 loans made in the state that year, only 146,065, or 13.35 percent, were repaid under an extended plan. We would expect this number to be much higher, given CRL’s research finding (discussed earlier) that churn accounts for three out of four payday loans.

Renewal bans/cooling-off periods

Almost every state allowing payday lending has some sort of restriction on the renewal of payday loans. Many policymakers enact renewal bans to address concerns that these ostensibly short-term loans are repeatedly rolled over into long-term debt. Payday lenders often support these measures,

knowing they have already found effective ways around them. For example, payday lenders routinely circumvent this by having borrowers pay off their loan and immediately take out another; this process is termed a “back-to-back” transaction. Because these types of transactions technically do involve paying off the loan—if only for a moment before a new loan is originated—they are not considered renewals.

Some states have sought to enforce renewal ban provisions with a “cooling-off” period of a business day or two between loans. In some states, this cooling-off period is enforced between each loan, but in others it is only activated once the borrower takes out a certain number of consecutive loans. Either way, these cooling-off periods do little to end the debt trap of payday lending, for borrowers simply wait until the cooling-off period has expired to take out another payday loan.

Payday Loans Create Long-Lasting Financial Harm

It is widely acknowledged, even by the payday industry itself, that long-term use of what is intended to be a short-term product is harmful. For example, the Community Financial Services Association of America (CFSA), the payday industry’s trade group, stated in its consumer guide that payday loans are “not a long-term solution” and that “[r]epeated or frequent use of payday advances can cause serious financial hardship.”³¹ Federal banking regulators agree with this assessment. In a warning to national banks considering partnering with payday lenders, the Office of the Comptroller of the Currency (OCC) stated that repeatedly renewing a payday loan either through extending a loan directly or through a series of back-to-back transactions was an exceedingly expensive and unsuitable way to borrow over the long term.³² In addition, the Federal Deposit Insurance Corporation (FDIC) has concluded that extensive use of payday loans is harmful. In guidance to banks that sought to partner with payday lenders, the regulator found that keeping borrowers in payday loan debt for more than 90 days a year (the equivalent of six two-week loans) was inappropriate.³³ Along the same lines, the National Credit Union Administration (NCUA) has advised that short-term loans more expensive than 18 percent APR be limited to three every six months (equating to six per year).³⁴

In order to determine the longer-term impact of payday lending, a 2011 CRL research report, *Payday Loans, Inc.*,³⁵ tracked payday borrowers for two years after taking out their first payday loan. The authors documented the size of the original loan, how many transactions borrowers conducted over a 24-month period, how long borrowers remained indebted, and how many borrowers defaulted. Key findings include:

- **On average, borrowers stayed indebted to payday lenders far longer than the FDIC maximum limit of 90 days.** Overall, borrowers in the study were indebted an average of 212 days (58 percent) of the first year they borrow and continued to be indebted over half the time in their second year. If we leave out the 15 percent of borrowers who took out only one loan in the two-year period, the remaining borrowers were indebted 345 days (63 percent) of their first 18 months and 432 days (59 percent) of the full two-year period.
- **Payday loans increased in size and frequency over time.** The data indicated that borrowers tended to become more heavily indebted—taking out loans more frequently and for larger amounts—as they continued to borrow from payday lenders. Active borrowers (those taking out at least one loan in each six-month period of the second year) took out an average of nine loans in the first year and 12 loans (or one/month) in the second year.

- In addition, the data showed that the amount borrowed also increased over time. The first loans taken out by borrowers were for relatively small amounts (an average of \$270), compared with an average loan amount over the whole two-year study of \$466—a 67 percent increase. This is problematic because taking out larger loans puts borrowers at greater risk of being unable to retire their payday loan debt and as a result needing to take out a new loan each pay period.
- **A significant share of borrowers became late or defaulted on their payday loan, triggering more fees and placing their bank account at risk.** 37 percent of borrowers experienced default in the first year of borrowing. Within the first two years, 44 percent did.

The payday lending industry claims that 95 percent of loans are paid on time,³⁶ but this does not mean that a debt trap does not exist. This claim does not reflect that a typical borrower will open a new loan shortly after paying off the old loan. A low *per-loan* default rate should be expected because payday loans are timed to be due on borrowers' payday, when they have an infusion of cash that can be used to repay the loan. Moreover, lenders can effectively repay themselves, since borrowers who cannot repay the loan can simply take out a new loan to retire the original debt. Since most borrowers take out many loans, the default rate on a *per-borrower* basis is extraordinarily high; nearly 50 percent of all borrowers will ultimately default.

Several other studies support CRL's findings. For example, in his seminal book on the history of the payday lending industry, Professor Robert Mayer notes that the typical payday lending company must set aside just over three percent of loan volume for losses, anticipating one out of every 30 loans will go unpaid. However, because lenders report that their borrowers take out about eight loans on average in a given year, one in four borrowers will incur a default. Mayer concludes that "[t]hese debtors will flounder and drown, but in most cases not before they have generated more in fee income than must be written off in principal."³⁷ Another study of a large Texas-based payday lender found a 54 percent default rate for payday borrowers who took out loans on a bi-weekly basis.³⁸ It concluded that by the time the borrower defaults, he or she will have serviced that payday loan five or six times and have paid over 90 percent of the amount of the principal in fees and interest alone.³⁹

The payday lending debt trap has negative consequences for borrowers beyond defaulting on the payday loans themselves, including:

- **Additional financial stress on borrowers**, with both the lender and the borrower's bank assessing non-sufficient-funds (NSF) fees, which average about \$30 each..
- **Legal ramifications for those that ultimately default on the loan**, who face potential court action, wage garnishment, or having their debt sold to a collection agency.
- **Losing their bank accounts**, since research has shown that access to payday loans is linked with increased rates of involuntary bank account closures.⁴⁰
- **Filing for bankruptcy.** One study⁴¹ found that payday borrowers nearly doubled their chances of filing for bankruptcy compared with households of similar financial status who were denied a payday loan.⁴²
- **Becoming delinquent on other debts.** Another study found that once credit card users began

borrowing from payday lenders, they became 92 percent more likely to become delinquent on their credit card payments.⁴³ In addition, a study comparing low- and middle-income households in states with and without access to payday lending found that those who could gain access to payday loans were more likely to have difficulty of paying bills or to have to delay medical care, dental care, and prescription drug purchases.⁴⁴

Bank Payday Loans Cause the Same Debt Trap as Storefront Lenders

Given the well-documented harms of the payday loan product, it is particularly troubling that a few banks have begun making payday loans directly. National banks offer payday loans that do not have to comply with state consumer protection laws such as interest rate caps that are intended to end the long-term debt trap of payday lending.⁴⁵ At least two national banks and at least two state-chartered banks are currently offering payday loans in states where traditional payday lending is not permitted.⁴⁶

Like payday loan shops, these banks require that a borrower have a source of income (or public benefits) and a checking account to qualify for a payday loan, but they do not underwrite the borrower's ability to repay the loan without having to take out another payday loan to meet recurring obligations. This practice harms not only borrowers but also legitimate lenders and businesses. By ensuring they are first in line to grab what they can from borrowers' incoming deposits, banks leave their customers with fewer funds to repay lenders who *do* perform meaningful underwriting and less to spend on needed goods and services.

A CRL study, *Big Bank Payday Loans*,⁴⁷ found that bank payday loans are structured similarly to their storefront counterparts and have a similar impact on borrowers. Analyzing Lightspeed Research Inc. checking account data from a nationwide sample of U.S. credit card holders that is representative across geography, household income, and credit scores, this report found that:

- **Like their storefront counterparts, bank payday loans are very expensive, carrying an APR of 365 percent based on the typical loan term of ten days.**

The typical bank payday loan was outstanding for only ten days.⁴⁸ Banks typically charged \$10 per \$100 borrowed,⁴⁹ amounting to a 365 percent APR. Even when the loan was outstanding for a full month, the APR of 120 percent is significantly more expensive than alternative credit products such as credit cards or consumer finance loans. For example, in the second quarter of 2011, the average credit card interest rate paid was 13.10 percent and the average interest rate on a 24-month personal loan from a commercial bank was 11.47 percent.⁵⁰ The high rates on bank payday loans have nothing to do with credit risk, as the loans are only made to borrowers with direct deposit and are repaid in full immediately upon deposit, resulting in a very low default rate.

- **Also like their storefront counterparts, bank payday loans often lead to a cycle of long-term indebtedness; on average, bank payday borrowers take out 16 loans and are in debt for 175 days per year, nearly twice as long as the maximum length of time the FDIC has advised.**

Banks allow loans of up to half of a customer's monthly direct deposit income or \$750, whichever is less. As a result, it is not surprising that the analysis found that 44 percent of customers' next deposits go toward repayment of their loan.⁵¹ This large proportion no doubt

contributes to the long-term debt cycle experienced by many bank payday borrowers.

- **Nearly one-quarter of all bank payday borrowers are Social Security recipients, who are 2.6 times as likely to have used a bank payday loan as bank customers as a whole.**

The authors were not able to determine to what extent the higher likelihood for Social Security recipients to use a bank payday loans arose from seniors being targeted by banks for payday loans (rather than being offered lower-cost checking account lines of credit), or from financial pressures (such as a monthly cycle for receiving Social Security benefits) pushing seniors into these loans. The report did find, however, that on average, when a Social Security recipient had an outstanding bank payday loan, the bank took a sizeable proportion (33 percent) of the borrower's next deposit to repay the loan and fee.⁵²

Internet Payday Loans Are No Different From Storefront and Bank Payday Loans

CFA surveyed a sample of twenty Internet payday lender websites in 2011.⁵³ Like their storefront and bank counterparts, internet payday lenders feature no underwriting for ability to repay the loan,⁵⁴ and they are first in line to receive the proceeds from a direct deposit. The only requirements of receiving an internet payday loan are having a checking account, identification, and an income (or public benefits). Key findings of the CFA survey include:

- Lenders require electronic access to borrowers' bank accounts. Instead of holding a paper check to secure payment of loans made at payday loan stores, Internet lenders gain authorization to electronically deposit loan proceeds and withdraw payments directly from borrowers' bank accounts. Some online lenders include authorization to create demand drafts to extract payments from bank accounts, even when consumers exercise their rights under the Electronic Fund Transfer Act to revoke authorization for lenders to electronically withdraw payments.
- Borrowers complete online applications and provide Social Security numbers, bank account and bank routing numbers in online applications at lender or lead generator websites.
- The loan size ranges from \$100 to \$1,500, with payment due on the borrower's next payday with loan terms ranging from five to thirty days.
- The typical cost of a \$500 loan is \$125 or 652 percent APR for a two-week loan. The surveyed loan costs ranged from a low of 378 percent in Kansas to 780 percent charged by six lenders.
- The default payment plan for most sites is to pay the finance charge only, with no reduction in loan principal for several paydays before payments include small reductions in principal. To initiate payment in full in one pay cycle, a borrower has to notify the lender days before the due date to request the lender to withdraw the full amount. The Federal Trade Commission recently filed a case against an online lender with such a default payment plan and charged the lender with violating the Truth in Lending Act for failing to disclose the full cost of the loan based on the default payment structure.⁵⁵
- Although some lenders purport to be state-licensed and to comply with state rate caps and loan terms, many online lenders claim choice of law from states with no rate caps or from foreign

countries. A growing number of online lenders claim to be exempt from state law enforcement because of tribal sovereign immunity.

- Online lenders pay up to \$110 for referrals of qualified loan applications from lead generators or affiliate marketers and some lenders encourage borrowing by offering discounts on the initial loan. Online lenders that make loans in states where licensed typically also link applicants to lead generators when applications come from states they do not serve.

Payday Lenders Target Communities of Color

The Federal Reserve Board's Survey of Consumer Finances (SCF) conducted in 2007 and released in 2009 provides a portrait of families who acknowledged using a payday loan in the prior year compared to families who did not use these loans. The findings, issued as a report by the Center for American Progress, are consistent with earlier research.⁵⁶ Payday loan users tend to have less income, lower wealth, fewer assets, and less debt than families without payday loans. They are more likely to be minorities, single female head of household, and younger than non-payday loan users. These borrowers have less education than consumers who do not use payday loans and are much less likely to own their own homes. Although nearly half of families who did not use payday loans described themselves as "savers," only one-quarter of payday loan users say they are savers.⁵⁷

These findings confirm earlier research and regulator data that demonstrate that minorities, lower-income, and otherwise vulnerable families are the consumers most likely to be paying triple digit interest rates for single payment loans based on unfunded checks held by a payday lender.

The debt trap of payday lending has a particularly adverse impact on African Americans and Latinos. A disproportionate share of payday borrowers come from communities of color.⁵⁸ This disproportionate share is even more significant because African Americans and Latinos are much less likely to have a checking account than whites⁵⁹—a basic requirement of getting a payday loan—which would lead one to believe that the concentration of payday lenders should be lower than in white neighborhoods.

Research indicates that payday lenders target these communities. For example, a 2005 CRL analysis of payday lender locations in North Carolina found 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.⁶⁰ Another study examining the location patterns of both payday lenders and banks in North Carolina found similar patterns. The author noted that after controlling for other variables, "a one percentage point increase in the population that is black will reduce the number of banks by one percent and increase the number of lenders by one percent."⁶¹ Another study of Washington State payday lenders concluded that "payday businesses do intentionally target localities with a high percentage of African Americans."⁶²

CRL's most recent research paper on racial profiling by the payday industry, *Predatory Profiling*,⁶³ examined the location of payday lenders in California, comparing their proximity to and concentration in African American and Latino communities relative to white neighborhoods. To determine whether payday lenders are serving areas that banks have neglected, the researchers performed the same analysis on bank branch locations, incorporating neighborhood race and ethnicity to determine whether banks appear to be systematically underserving such areas. CRL found the following:

- **Payday lenders are nearly eight times as concentrated in neighborhoods with the largest shares of African Americans and Latinos compared with white neighborhoods, draining nearly \$247 million in fees from communities of color.**

The analysis found that neighborhoods with the greatest concentration of African Americans and Latinos are about 2.5 times closer to the nearest payday lender than neighborhoods with the fewest African American and Latinos. Not only are payday lending storefronts located in or closer to communities of color, payday lenders also tend to cluster in these areas, with more stores in a given African-American or Latino neighborhood than a neighborhood with a greater share of white households. Payday lenders are also nearly eight times as concentrated in neighborhoods with the largest share of African Americans and Latinos as areas with the lowest concentrations of these groups.

Payday lending advocates often cite the disinvestment of banks and other mainstream financial institutions in communities of color as the reason payday lenders move to these neighborhood. Our analysis found that there were only slightly fewer bank branches in African American and Latino than in white neighborhoods.

- **Even after controlling for income and a variety of other factors, payday lenders were 2.4 times more concentrated in African American and Latino communities. On average, controlling for a variety of relevant factors, the nearest payday lender was almost twice as close to the center of an African American or Latino neighborhood as a white neighborhood.**

Banks were only slightly farther away from areas with the highest share of African Americans and Latinos compared with neighborhoods with the lowest levels of these groups.

- **Race and ethnicity played a far less prominent role in the location of mainstream financial institutions such as bank branches. Whereas race and ethnicity accounted for over half the variation in payday lender location explained by neighborhood factors, they explained only one percent of the variation in bank branch locations.**

Payday lenders' targeting of racial minorities has a destructive effect on borrowers and, by extension, the communities in which they live. The \$247 million California communities of color pay in annual payday loan fees are drained from their communities. They could be saved or better spent on food, car repairs, medicine, housing, child care, education, or other needs.

There Are a Wide Range of Options for Consumers to Bridge a Budget Gap Without Creating a Spiraling Debt Trap.

Payday lenders often compare their loans with bank overdraft charges, implying that the alternative to payday loans is incurring more overdraft fees.⁶⁴ Because overdraft charges tend to be paid back faster than payday loans, their APR can be even higher than that of payday loans. It is illustrative that the payday industry defends its product not by comparing it with legitimate alternatives, which are much lower cost. (We outline some below.) Instead, it compares itself with abusive bank fees, which we hope the CFPB will regulate. In fact, these bank fees are not a substitute for payday products; to the contrary, borrowers who take out payday loans are more likely to fall prey to these bank fees as well. This is not surprising, because payday loans are secured by a borrower's personal check or automatic electronic access to a borrower's bank.

Much of the available data suggest that payday lending increases involuntary bank fees. Because one-quarter to one-half of all payday borrowers default in a twelve-month period, payday lending can actually spur overdraft fees.⁶⁵ In North Carolina, payday borrowers paid over \$2 million in NSF fees to payday lenders in addition to the fees assessed by their banks in the last year their practice was legal.⁶⁶ Moreover, Harvard Business School researchers found that payday lending can increase the odds that households will repeatedly overdraft and ultimately have their banks close their checking accounts.⁶⁷ Therefore, rather than lessening the impact of overdraft fees on a family's budget, payday loans exacerbate it.

Payday loans are worse than the other options that families can utilize to manage a budget shortfall.⁶⁸ Payday lenders are able to stay in business despite these alternatives by offering the first loan at no or greatly reduced cost. And, then once borrowers stuck in that cycle, they can't get out and their financial stress is dug deeper and extended for longer periods of time than if they had never drawn the payday loan to begin with.

In fact, payday borrowers have other options, even if it is whatever alternative they will face if they default and the payday lender turns them down. In fact, the market includes a range of responsible small-dollar loans that have these features:

- at least a 90-day repayment term, repayable in equal installments; No personal check mechanism, compulsory debit authorization, or other unfair collateral (such as a car title);
- reasonable limits on renewals (e.g., renewing small-dollar loans more than four times per year is a sign that loans are not helping borrowers);
- full consideration of borrower's ability to repay the loan other than through additional loan proceeds; and
- no mandatory arbitration clause.

Examples of other options reported by borrowers as ways to handle financial stress include the following, all of which become more difficult to access once a borrower falls into the long-term payday debt cycle:

- **Saving:** Even small amounts of saving that are regularly depleted and rebuilt can help consumers weather unexpected expenses and income irregularities.
- **Budgeting and doing without:** Credit should not be a substitute for income. Borrowing will only worsen a structural imbalance between income and expenses.
- **Borrowing from friends and family:** People are often reluctant to borrow from friends and family, who also may be reluctant to lend unless there is a true emergency; as a result, this type of borrowing is more likely to stay in check and only be used when truly necessary.
- **Payment plan with creditors:** Many creditors will negotiate partial payments if a payment plan is in place. Working out a payment plan with creditors can allow the consumer to adjust billing to pay off bills over a longer period of time.
- **Advances from employers:** Some employers grant paycheck advances at no cost to employees. Because this is a true advance, and not a loan, there is no interest and also no incentive for predatory lending.

- **Consumer credit counseling:** Various consumer credit counseling agencies throughout the country can help consumers work out a debt repayment plan with creditors or develop a budget. These services are available at little or no cost.
- **Emergency assistance programs:** Many faith-based groups and community organizations provide emergency assistance, either directly or through social services programs. For example, in partnership with state agencies, the federal Low Income Home Energy Assistance Program (LIHEAP) provides financial assistance to low-income households that are in a heating or cooling weather-related emergency.
- **Credit Union Loans:** Many credit unions offer small, short-term loans to their members.⁶⁹ For example, North Carolina State Employees' Credit Union offers members a salary advance loan at 11.75% APR—30 times cheaper than a typical payday loan. Some credit unions also offer free financial counseling and a savings plan to help members get back on their feet. Many other credit unions offer very low interest rate loans (prime to 18 percent annual interest) with quick approval on an emergency basis.
- **Cash Advances on Credit Cards:** Many payday borrowers have credit cards. Credit card cash advances, which are offered at about 30 percent APR plus the cash advance fee, are much cheaper than getting a payday loan. Secured credit cards tied to savings accounts are another option. One study found that payday borrowers who also had a credit card had substantial liquidity in the credit card on the days they took out payday loans.⁷⁰
- **Military loans:** Several companies offer loans ranging from \$500 to \$10,000 to active duty and retired military personnel. Payday loans are ten to 13 times more expensive than these small consumer loans. These loans cost less than payday loans because they have much lower APR, ranging from 33-35 percent. All military relief societies offer free small dollar loans with installment repayment schedules to the service members they support. For example, the Air Force Aid Society has a \$500 Falcon Loan; the Navy-Marine Corp Relief Society offers a \$300 Quick Assist Loan; and the Army Emergency Relief loan program replaces the need for using a high-cost loan.
- **Small Consumer Loans:** Small consumer finance companies offer double-digit APR small, short-term loans. Charges for these loans typically range from 25-36 percent APR. These loans are also much cheaper than payday loans; a person can borrow \$1,000 from a finance company for a year and pay less than a \$200 or \$300 payday loan over the same period.

Many of these alternatives take more effort than obtaining a payday loan, but taking on more debt when one is unable to meet current expenses is something that should not be done lightly. The seductive ease of payday loans (the flip side of lack of underwriting) is part of the problem. Indeed, research has shown that the more temptations one is offered, the harder it is to resist them and do the right thing.⁷¹ Ending the debt trap of deceptively easy but ultimately destructive payday loans will lead more borrowers to consider alternatives that may take more effort at the outset but will lead to more financial stability in the long term.

Conclusion

Payday loans are destructive to borrowers and the communities in which they live. Like subprime loans of the early 2000s, payday lenders (whether storefront, online, or bank) do not underwrite borrowers for their ability to repay the loan. Just as subprime lenders depended on continually refinancing their loans, so do payday lenders. Just as with subprime loans, this refinancing cannot go on forever. Eventually, 50 percent of payday borrowers default and face a cascade of consequences, but not before paying hundreds of dollars to service the initial loan multiple times. In this process, their limited income is stripped away, going into the hands of payday lenders rather than staying in their community to pay for essentials such as shelter, clothing, food, and medicine.

The abusive debt trap of payday lending must end. We urge the Bureau to use the full panoply of tools available to it—including supervision, enforcement, and rulemaking—to end the debt trap caused by payday lending.

Thank you for the opportunity to comment on this important topic. If you have any questions or need more information, please do not hesitate to contact Susanna Montezemolo at the Center for Responsible Lending at (202) 349-1850.

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, a nonprofit community development financial institution. For 30 years, Self-Help has focused on creating asset-building opportunities for low-income, rural, women-headed, and minority families, primarily through financing safe, affordable home loans. In total, Self-Help has provided over \$6 billion of financing to almost 70,000 low-wealth families, small businesses, and nonprofit organizations in North Carolina and across America.

² The Consumer Federation of America is an association of nearly 300 nonprofit consumer groups that was established in 1968 to advance the consumer interest through research, advocacy and education.

³ National Consumer Law Center®, Inc. (NCLC®) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and policy advice on consumer law issues to attorneys, policymakers and consumer advocates across the country. NCLC publishes a series of eighteen practice treatises and annual supplements on consumer credit laws, as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers.

⁴ [Americans for Financial Reform](#) is an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups.

⁵ The Center for Digital Democracy (CDD) is recognized as one of the leading consumer protection and privacy organizations in the United States. Since its founding in 2001 (and prior to that through its predecessor organization, the Center for Media Education), CDD has been at the forefront of research, public education, and advocacy on protecting consumers in the digital age. Its impact has been highly significant, fostering widespread debate, educating a spectrum of stakeholders, and creating a legacy of government and self-regulatory safeguards across a variety of Internet and digital media platforms. CDD's public education programs are focused on informing consumers, policy makers, and the press about contemporary digital marketing issues, including its impact on public health, children and youth, and financial services.

⁶ Consumer Action (www.consumer-action.org) is a national non-profit education and advocacy organization that has served underrepresented consumers since 1971. Consumer Action (CA) focuses on financial education that empowers consumers nationwide and advances consumer rights in the fields of credit, banking, housing, privacy, insurance and utilities. Consumer Action creates free consumer education modules, training, and multi-lingual materials for the public and its network of more than 8,000 community based organizations. The modules include publications in Chinese, English, Korean, Spanish and Vietnamese.

⁷ Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for telecommunications reform, health reform, food and product safety, financial reform, and other consumer issues. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

⁸ Founded in 1969, the Insight Center for Community Economic Development is a national research, consulting, advocacy, and legal organization dedicated to building economic health and opportunity in vulnerable communities. Throughout its history, it has developed and tested new models and approaches, often locally, promoted the promising ones nationally as best practices in the field, and worked with them to develop supportive policy.

⁹ The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups.

¹⁰ The National Association of Consumer Advocates (NACA) is a non-profit association of consumer advocates and attorney members who represent hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA's members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

¹¹ National People's Action (NPA) is a network of grassroots organizations with a fierce reputation for direct action from across the country that work to advance a national economic and racial justice agenda. NPA has over 200 organizers working to unite everyday people in cities, towns, and rural communities throughout the United States through direct-action, house meetings and community organizing.

¹² NEDAP is a New York City-based policy and advocacy center that works with community groups to promote economic justice. NEDAP employs multiple strategies – including community outreach and education, advocacy, coalition organizing, policy research and analysis, media outreach, technical support for community groups, and direct legal services – to address inequities in the financial services system that adversely affect people living in low and moderate income neighborhoods and communities of color.

¹³ Public Citizen is a national non-profit organization with more than 225,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.

¹⁴ The California Reinvestment Coalition is a statewide membership-based non-profit working to increase fair and equal access to affordable banking and financial services for lower income communities and communities of color. We have approximately 300 organizations as members across rural and urban California.

¹⁵ The mission of Community Legal Services (CLS) of Philadelphia is to help low-income Philadelphia residents obtain equal access to justice by providing them with advice and representation in civil legal matters; advocating for their legal rights; and conducting community education about the legal issues that affect them.

¹⁶ As the New Jersey's largest citizen watchdog coalition, New Jersey Citizen Action works to protect and expand the rights of individuals and families and to ensure that government officials respond to the needs of people rather than the interests of those with money and power. www.njcitizenaction.org

¹⁷ For example, the Community Financial Services Association of America (CFSA) website states: "A payday advance should be used responsibly and for only the purpose for which it is intended: To solve temporary cash-flow problems by bridging the gap between paydays. A payday advance is designed to provide short-term financial assistance. It is not meant to be a long-term solution." See <http://cfsaa.com/what-is-a-payday-advance/is-a-payday-advance-appropriate-for-you.aspx> (viewed on 4/18/12).

¹⁸ Stephens Inc. industry report, 3/12/12.

¹⁹ For example, the CFSA website touts: "As provided by CFSA's best practices, a customer who cannot pay back a loan when it is due has the option of entering into an Extended Payment Plan (EPP). This service allows the loan to be repaid over a period of additional weeks. CFSA member companies provide this option to customers for any reason and at no additional cost." See <http://cfsaa.com/cfsa-member-best-practices/what-is-an-extended-payment-plan.aspx> (viewed on 4/18/12).

²⁰ University of North Carolina Center for Community Capital (for the North Carolina Commissioner of Banks), *North Carolina Consumers After Payday Lending: Attitudes and Experiences with Credit Options*, November 2007, available at: http://www.ccc.unc.edu/documents/NC_After_Payday.pdf.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Leslie Parrish and Uriah King, *Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76 Percent of Total Volume*, Center for Responsible Lending, 7/9/09, available at: <http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-final.pdf>.

²⁵ Researchers arrived at this estimate by excluding the following loan categories from the total volume of payday lending: loans made to borrowers who take out a single loan in a year, initial loans made to borrowers with more than one loan in

a year, and subsequent loans made to repeat borrowers that are not opened during the same pay period in which the previous loan was repaid.

²⁶ Source: Two-week estimates for taxes, Social Security, and household expenditures derived from annual estimates from the 2007 Consumer Expenditure Survey, Bureau of Labor Statistics, households earning \$30,000-39,999 annually. Annual income and expenses are divided by 26 to obtain a two-week cash flow estimate.

²⁷ Uriah King and Leslie Parrish, *Springing the Debt Trap: Rate Caps are the Only Proven Payday Lending Reform*, Center for Responsible Lending, 12/13/07, available at: <http://www.responsiblelending.org/payday-lending/research-analysis/springing-the-debt-trap.pdf>.

²⁸ For example, before changes to Colorado's law, borrowers were eligible for Colorado's payment plan after taking out four consecutive loans (defined as loans taken within five days after a previous loan is repaid). The state regulator office reported that lenders had made their borrowers ineligible for payment plans in the following ways: (1) requiring at least a six-day cooling-off period after the third consecutive loan, (2) offering an interest-free loan after the third consecutive loans (since loans without finance charges do not count toward payment plan eligibility), and (3) refusing origination of a fourth consecutive loan, which would presumably drive borrowers to another payday lender. Correspondence via email with Laura Udis, Colorado Consumer Uniform Credit Code Administrator, on file with CRL.

²⁹ A borrower would owe \$377 assuming a \$325 payday loan with a \$52 fee. If this borrower is given a payment plan to pay the loan back over four pay periods, the fee of each installment would be \$94.25 (\$377/4 payments).

³⁰ Washington Department of Financial Institutions, *2010 Payday Lending Report*, p. 3.

³¹ *Your Guide to Responsible Payday Advances*, Community Financial Services Association of America, available at www.cfsa.net/downloads/Your_Guide_to_Responsible_Use_of_Payday_Advances_English.pdf (viewed on 3/31/11).

³² *OCC Advisory Letter on Payday Lending*, AL 200-10 (11/27/00), available at:

http://ithandbook.ffiec.gov/media/resources/3670/occ-al-2000-10_payday_lending.pdf.

³³ *Guidelines for Payday Lending*, FDIC Financial Institutions Letter FIL-14-2005 (2/25/05), available at:

<http://www.fdic.gov/news/news/financial/2005/fil1405a.html>.

³⁴ National Credit Union Administration, *Short-Term, Small Amount Loans*, Final Rule, Sept.

2010, available at: <http://www.ncua.gov/GenInfo/BoardandAction/DraftBoardActions/2010/Sep/Item3b09-16-10.pdf>.

³⁵ Uriah King and Leslie Parrish, *Payday Loans, Inc.: Short on Credit, Long on Debt*, Center for Responsible Lending, 3/31/11, available at: <http://www.responsiblelending.org/payday-lending/research-analysis/payday-loan-inc.pdf>.

³⁶ For example, see the CFSAA "myths vs. realities" factsheet, <http://cfsaa.com/about-the-payday-advance-industry/myths-vs-reality/liveaccid/4932.aspx> (viewed 4/18/12), which states: "Ninety-five percent of payday loans are repaid when due, a fact confirmed by numerous state regulatory reports."

³⁷ Robert Mayer, *Quick Cash: The Story of the Loan Shark*, Northern Illinois University Press (2010), pp. 152-153.

³⁸ Paige Marta Skiba (Vanderbilt) and Jeremy Tobacman (U. Pennsylvania). *Payday Loans, Uncertainty, and Discounting: Explaining Patterns of Borrowing, Repayment, and Default*, Vanderbilt University Law School and University of Pennsylvania, 8/21/08, available at: <http://www.law.vanderbilt.edu/faculty/faculty-personalsites/paige-skiba/publication/download.aspx?id=1636>.

³⁹ Ibid.

⁴⁰ See, e.g., 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.

⁴¹ 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.

⁴² It is striking that borrowers who were rejected for payday loans and presumably were riskier fared better than those who received payday loans. This finding should not be read as implying that payday lenders underwrite for borrowers' ability to repay. To the contrary; as we have seen, most payday borrowers cannot both repay their loan and meet other existing obligations, thus reborrowing shortly after repaying the loan. Some payday lenders do a subprime credit check through Teletrack, and scoring too low here means that some people are rejected. According to one study, "Teletrack scores emphasize information from subprime lenders (including car title lenders and rent-to-own establishments, in addition to payday lenders)" and do not correlate well with the Fair Isaacs Company (FICO) Score, which is typically used in the prime market. See Sumit Agarwal, Paige Marta Skiba, and Jeremy Tobacman, *Payday Loans and Credit Cards: New Liquidity and Credit Scoring Puzzles?*, Federal Reserve Bank of Chicago, Vanderbilt University Law School, and University of Pennsylvania, 1/13/09, available at: <http://www.nber.org/papers/w14659>.

⁴³ Ibid.

⁴⁴ Brian T. Melzer, *The Real Costs of Credit Access: Evidence from the Payday Lending Market*, Kellogg School of Management, Northwestern University, 1/3/09, available at:

www.kellogg.northwestern.edu/faculty/melzer/Papers/realcosts_melzer_07.02.09.pdf.

⁴⁵ High-cost payday loans are not available in the following states/jurisdictions: Arkansas, Arizona, Connecticut, the District of Columbia, Georgia, Maine, Maryland, Massachusetts, Montana, New Jersey, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, and West Virginia. Although the exact interest rate cap varies by state, most are about 36 percent APR.

⁴⁶ These states include Arkansas, Arizona, Georgia, Montana, North Carolina, Ohio, Oregon, and Pennsylvania.

⁴⁷ Rebecca Borné, Joshua Frank, Peter Smith, and Ellen Schloemer, *Big Bank Payday Loans: High-Interest Loans Through Checking Accounts Keep Customers in Long-Term Debt*, Center for Responsible Lending, July 2011, available at: <http://www.responsiblelending.org/payday-lending/research-analysis/big-bank-payday-loans.pdf>.

⁴⁸ The median loan term of the 50-loan sample was ten days.

⁴⁹ One bank offering payday loans charged \$7.50 per \$100 loaned; the others that the authors were aware of charged \$10 per \$100. Even at a fee of \$7.50 per \$100, the APR for a 10-day loan was 275 percent.

⁵⁰ Federal Reserve Board's G19 release.

⁵¹ The 95 percent confidence interval is 36-51 percent.

⁵² The 95 percent confidence interval is 26-40 percent.

⁵³ The findings of the survey can be found at

<http://www.consumerfed.org/pdfs/CFAsurveyInternetPaydayLoanWebsites.pdf>.

⁵⁴ In fact, one of the selling points for online lenders is that they do not run a credit check and that bad credit does not disqualify borrowers. Online lenders tell borrowers that bad credit is no problem. Americanwebloan states: "Don't worry if you have some bad things on your credit report—late payments, missed payments, even bankruptcy—everyone does," www.americanwebloan.com/faqs.aspx, visited 8/26/11; also see "No Credit Check!" from www.ezpaydaycash.com, visited 8/26/11; and "We do not perform credit checks, however, we do verify your check writing/loan history with national databases" from www.mypaydayloan.com/faq.htm, visited 8/26/11.

⁵⁵ *FTC v. AMG Services, Inc., et al*, Complaint for Injunction, filed in U.S. District Court District of Nevada, 4/2/12.

⁵⁶ Amanda Logan and Christian E. Weller, "EZ Payday Loans: Who Borrows From Payday Lenders? An Analysis of Newly Available Data," Center for American Progress, March 2009, summary of findings at page 1.

⁵⁷ This is consistent with research from CFA which finds that a family earning \$25,000 per year and no savings is eight times as likely to take out a payday loan in a year than the same income family with at least \$500 in emergency savings.

⁵⁸ Limited data on the race and ethnicity on payday borrowers have been collected. For example, a June 2008 California Department of Corporations survey found that, although they represent about one-third of the overall state population, over half of California payday borrowers are African American and Latino. See California Department of Corporations, "Payday Loan Study (Updated June 2008)," available at:

http://www.corp.ca.gov/Laws/Payday_Lenders/Archives/pdfs/PDLStudy07.pdf. Moreover, researchers using a database of a large Texas-based payday lender found that African Americans (who make up 11 percent of the total adult population) made up 43 percent of payday borrowers and Latinos (who make up 29 percent of the total adult population) made up 34 percent of payday borrowers. See Table 1 of Skiba and Tobacman, *Do Payday Loans Cause Bankruptcy?* op. cit. In addition, a survey conducted by Cypress Research Group for the payday lending industry found a disproportionate share of borrowers were African American; however, the survey did not find that Latinos made up a disproportionate share of payday borrowers. See *Payday Advance Customer Satisfaction Survey*, Cypress Research Group, May 2004.

⁵⁹ The Federal Reserve's Survey of Consumer Finances found that 19.4 percent of non-white households do not have a bank account, compared with less than five percent of whites. See Brian K. Bucks, Arthur B. Kennickell, and Kevin B. Moore, *Recent Changes in U.S. Family Finances: Evidence from the 2001 and 2004 Survey of Consumer Finances*. Federal Reserve Bulletin, February 2006.

⁶⁰ Delvin Davis, Keith Ernst, Uriah King, and Wei Li, *Race Matters: The Concentration of Payday Lenders in African-American Communities in North Carolina*. Center for Responsible Lending, March 2005, available at:

http://www.responsiblelending.org/north-carolina/nc-payday/research-analysis/racematters/tr006-Race_Matters_Payday_in_NC-0305.pdf.

⁶¹ Mark L. Burkey and Scott P. Simkins, "Factors Affecting the Location of Payday Lending and Traditional Banking Services in North Carolina" *Review of Regional Studies*, Fall 2004 Vol. 34 no. 2 pp. 191-205.

⁶² 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, March 2006.

⁶³ Wei Li, Leslie Parrish, Keith Ernst, and Delvin Davis, *Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California*, Center for Responsible Lending, 3/26/09, available at:

<http://www.responsiblelending.org/payday-lending/research-analysis/predatory-profiling.pdf>.

⁶⁴ For example, see the CFSAA's page linking to a study on this topic: <http://cfsaa.com/our-resources/short-term-credit-alternatives/households-with-access-to-payday-loans.aspx> (viewed 4/19/12).

⁶⁵ When a payday loan defaults, the payday borrower is still liable for the triple-digit interest rates to the payday lender plus NSF fees to both the payday lender and the bank. In Skiba and Tobacman, *Do Payday Loans Cause Bankruptcy?* Op. cit., the authors find that half of borrowers experience a default within the first 12 months of taking a payday loan. Regulator data from Florida and Oklahoma reveal that 26 and 25 percent of borrowers, respectively, experience a default within a given 12 month reporting period. Regulator data on file with CRL.

⁶⁶ As reported in the 2000 Annual Report of the North Carolina Commissioner of Banks, payday lenders collected a total of \$2,000,844 in NSF fees. This was the last year payday lenders were authorized to operate in North Carolina.

⁶⁷ Specifically, an increase in the number of payday lending locations in a particular county is associated with an 11 percent increase of involuntary bank account closures, even after accounting for county per capita income, poverty rate, educational attainment, and a host of other variables. Campbell, Jerez, and Tufano, op. cit.

⁶⁸ For a longer discussion of alternatives to payday loans and the features of genuine alternatives, see National Consumer Law Center, *Stopping the Payday Loan Trap: Alternatives that Work, Ones that Don't*, June 2010, available at: http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf.

⁶⁹ Many of these credit union loans are described in National Consumer Law Center's *Stopping the Payday Loan Trap* op. cit.

⁷⁰ Agarwal, Skiba, and Tobacman, op. cit.

⁷¹ See Jamie Holmes, "Why Can't More Poor People Escape Poverty? A Radical New Explanation from Psychologists," *The New Republic*, 6/6/11, available at: <http://www.tnr.com/article/environment-energy/89377/poverty-escape-psychology-self-control> (viewed 4/20/12).