EXAMINING CONSUMER CREDIT ACCESS CONCERNS, NEW PRODUCTS, AND FEDERAL REGULATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JULY 24, 2012

Printed for the use of the Committee on Financial Services

Serial No. 112–149

U.S. GOVERNMENT PRINTING OFFICE

76–120 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

SPENCER BACHUS, Alabama, *Chairman*

JEB HENSARLING, Texas, *Vice Chairman*
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
RON PAUL, Texas
DONALD A. MANZULLO, Illinois
WALTER B. JONES, North Carolina
JUDY BIGGERT, Illinois
GARY G. MILLER, California
SHELLEY MOORE CAPITO, West Virginia
SCOTT GARRETT, New Jersey
RANDY NEUGEBAUER, Texas
PATRICK T. MCHENRY, North Carolina
JOHN CAMPBELL, California
MICHELE BACHMANN, Minnesota
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
STEVAN PEARCE, New Mexico
BILL POSEY, Florida
MICHAEL G. FITZPATRICK, Pennsylvania
LYNN A. WESTMORELAND, Georgia
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
NAN A. S. HAYWORTH, New York
JAMES B. RENACCI, Ohio
ROBERT HURT, Virginia
ROBERT J. DOLD, Illinois
DAVID SCHWEIKERT, Arizona
MICHAEL G. GRIMM, New York
FRANCISCO "QUICO" CANSECO, Texas
STEVE STIVERS, Ohio
STEPHEN LEE FINCHER, Tennessee

BARNEY FRANK, Massachusetts, *Ranking Member*
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN MCCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
GWEN MOORE, Wisconsin
KEITH ELLISON, Minnesota
ED PERLMUTTER, Colorado
JOE DONNELLY, Indiana
ANDRÉ CARSON, Indiana
JAMES A. HIMES, Connecticut
GARY C. PETERS, Michigan
JOHN C. CARNEY, JR., Delaware

JAMES H. CLINGER, *Staff Director and Chief Counsel*

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

SHELLEY MOORE CAPITO, West Virginia, *Chairman*

JAMES B. RENACCI, Ohio, *Vice Chairman*
EDWARD R. ROYCE, California
DONALD A. MANZULLO, Illinois
WALTER B. JONES, North Carolina
JEB HENSARLING, Texas
PATRICK T. MCHENRY, North Carolina
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
STEVAN PEARCE, New Mexico
LYNN A. WESTMORELAND, Georgia
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
FRANCISCO "QUICO" CANSECO, Texas
MICHAEL G. GRIMM, New York
STEPHEN LEE FINCHER, Tennessee

CAROLYN B. MALONEY, New York, *Ranking Member*
LUIS V. GUTIERREZ, Illinois
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
RUBÉN HINOJOSA, Texas
CAROLYN MCCARTHY, New York
JOE BACA, California
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
NYDIA M. VELÁZQUEZ, New York
GREGORY W. MEEKS, New York
STEPHEN F. LYNCH, Massachusetts
JOHN C. CARNEY, JR., Delaware

CONTENTS

WITNESSES

Tuesday, July 24, 2012

APPENDIX

Additional Material Submitted for the Record

EXAMINING CONSUMER CREDIT ACCESS CONCERNS, NEW PRODUCTS, AND FEDERAL REGULATIONS

Tuesday, July 24, 2012

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Shelley Moore Capito [chairwoman of the subcommittee] presiding.

Members present: Representatives Capito, Renacci, Royce, Hensarling, Pearce, Westmoreland, Luetkemeyer, Huizenga, Grimm, Fincher; Maloney, Watt, Hinojosa, Baca, Scott, Meeks, and Carney.

Also present: Representatives Schweikert, Sessions, and Green

Chairwoman CAPITO. The hearing will come to order. I would like to first thank my colleagues, Mr. Luetkemeyer and Mr. Baca, for their hard work on the legislation before us today. This subcommittee held a hearing last fall on issues about access to consumer credit for borrowers who may not have the ability to use traditional sources of credit. H.R. 6139 is an attempt to address some of the potential inequities in the current regulatory structure for nondepository institutions and consumers.

The recent economic downturn and anemic recovery have highlighted the difficult environment for consumers to access credit. A recent National Bureau of Economic Research study found that nearly 50 percent of Americans are unlikely or unable to raise $2,000 in case of an emergency with 30-days' notice. And we know this frequently occurs in many American families, an emergency that needs to be addressed.

Furthermore, the FDIC found that nearly 25 percent of American households have trouble accessing credit from traditional sources like banks and credit unions. These tough economic times are highlighting, I think, the need for innovation and diversity in financial products. Last fall, the subcommittee had a hearing on innovation in the consumer credit market. Entrepreneurs across the country are developing new and innovative techniques and methods for consumers to access credit from nontraditional sources. Technology is providing new ways to analyze data and create platforms to distribute credit in a more cost-effective, transparent manner.

We have also learned, through a series of hearings on the future of money, that it is entirely possible that consumers may become less reliant on traditional financial institutions as more payment services are driven towards mobile devices. H.R. 6139 is an important part of a broader discussion about how these financial products should be regulated. The majority of these products are currently subject to a patchwork of State regulatory regimes. In some States, consumers have access to a broad array of products, whereas in other States, there is little or no access to consumer credit from institutions outside of the traditional sources of banks and credit unions.

Title X of Dodd-Frank grants supervisor authority for some nondepository institutions. The legislation before us today creates an optional Federal charter for nondepository creditors. They will be housed within the OCC. I look forward to hearing our witnesses' testimony on H.R. 6139 as well as the overall need to keep up with the innovation in nontraditional financial products.

I now recognize Mrs. Maloney, my ranking member, for 4 minutes for the purpose of making an opening statement.

Mrs. MALONEY. I want to thank the chairlady for calling the hearing, and I also thank all of our witnesses for being here. I am looking forward to the updated version of the bill that my colleagues—Mr. Baca and Mr. Luetkemeyer—have introduced that would give non-banks an optional Federal charter, allowing them to operate nationally to give small loans.

I do want to say that this hearing is focused on what is a real problem in American society today. The amount of personal family debt is growing, credit card debt is over $1 trillion, and student loans have surpassed credit card debt. And I would say around the kitchen tables of America, many people are just trying to figure out how to make ends meet.

One colleague told me a story about a mother whose car broke down. It needed a new transmission, so she needed a loan of $2,000 to fix her car. So where does she go to get this loan? Most credit unions and banks wouldn't give a loan of that small amount. It would be difficult to get.

So there is a need in our structure for small loans and access to them. But until the financial reforms that were enacted in 2010, non-banks were exclusively regulated at the State level. But as we worked to revamp our financial system, we saw gaping holes in regulation and consumers were often on the losing end of the deal. The FTC had some oversight for these non-bank loans.

Now that we have the Consumer Financial Protection Bureau (CFPB) with its sole mission of consumer protection across the financial industry, including non-banks, there will be a Federal regulator exercising authority over certain non-banks consulting with the FTC. And States like New York will still be able to exercise their authority to set a ceiling for consumer protection.

For example, New York has imposed a usury cap of 16 percent on consumer and personal loans. Most payday and low-dollar loans are not permitted in the State because they almost always carry interest rates higher than 16 percent. However, we cannot deny that lower-income and underbanked consumers often turn to short-term loans to make it to the next paycheck. Some consumers are turning to the Internet for these products and to financial entities that are located offshore and away from all regulatory scrutiny.

This is the main argument by proponents of the bill that is before us today, that consumers are turning to offshore entities which provide predatory products to consumers who have nowhere else to go. The bill we are reviewing today will preempt State laws for an entity that wishes to pursue a Federal charter with the OCC. The OCC, which is traditionally a safety and soundness regulator of banks, would be the principal regulator for these entities, and they have expressed some significant concerns about the bill.

So I hope that this hearing will shed light on the entire question. And the questions that I have are: is the OCC the appropriate agency to be approving appropriate consumer products for the underbanked and underserved communities; and are consumers going to be sufficiently protected in creating this charter? So I look forward to the comments and to the testimony today. Thank you.

Chairwoman CAPITO. Thank you.

Mr. Luetkemeyer for 3 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman, and thank you for holding this hearing to discuss what I believe is a very important topic: greater access to credit. I also want to thank the gentleman from California, Mr. Baca, for his hard work on this issue. He has been a dedicated leader on this subject and I greatly appreciate his efforts.

At a time when nearly half of all Americans are living paycheck to paycheck, we cannot continue to operate without innovation in the credit sector. It is essential to begin to understand the true needs of American families in trying to address the problems that continue to plague them. H.R. 6139, the Consumer Credit Access, Innovation, and Modernization Act, will allow for and even encourage the development of new and badly needed financial products. And it does so under strict regulatory guidelines without jeopardizing consumer safety.

Let me be clear, this is not a payday lending bill. In fact, this legislation bars new federally-chartered institutions from making loans for terms less than 30 days. Again, this legislation prohibits payday loans, and other loans with terms of less than 30 days. This legislation also requires the OCC to approve or deny any and all products and to coordinate with the CFPB, the Attorney General, and other State regulators. With that, Madam Chairwoman, I request unanimous consent to insert in the record a letter of support and a statement from Mark Shurtleff, Attorney General of Utah, and also a letter of support from The 60 Plus Association.

Chairwoman CAPITO. Without objection, it is so ordered.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

We can sit here and say that consumers don't need these products, and we can continue to say that they are aren't necessary and they shouldn't be permitted, but that simply isn't a responsible way to move forward. These products are needed. Data shows that each year, Missourians alone initiate almost 2 million Internet searchers for these types of small-dollar loans. Nationwide, that number surpasses 74 million. Our economy and society are moving toward doing more and more business online. To facilitate this movement in customer preference, we need to provide a structure to allow this, as well as safety measures to protect the consumer from unscrupulous practices.

Mr. Baca and I offer today legislation that will closely regulate and monitor institutions and their products, ensuring full consumer protection and rigorous oversight by Federal and State entities. However, without these products, consumers seeking a small loan will be forced to go to offshore lenders in the black market, leaving Americans in need with no consumer protections whatsoever. It is time to allow all Americans access to safe, closely regulated forms of credit. I thank our witnesses for testifying today, and I look forward to the productive conversation. With that, Madam Chairwoman, I yield back.

Chairwoman CAPITO. The gentleman yields back. Mr. Baca for 3 minutes.

Mr. BACA. Thank you very much for having this hearing. I would also like to thank the witnesses for being here this morning. I request unanimous consent to insert a letter on H.R. 6139 from The Hispanic Institute into the record.

Chairwoman CAPITO. Without objection, it is so ordered.

Mr. BACA. Thank you. Just last week, the unemployment rate in my district rose to 12.6 percent. Combine that with the constant high unemployment across the country, hard foreclosure rates, and low economic growth, and you can see why more and more families are living paycheck to paycheck. As such, we have seen a credit divide grow deeper between the haves and the have-nots. What happens to the single parent who needs to fix their car? Think about that, those who have to fix their cars. What happens to unemployed families in need who need to pay their mortgages or monthly bills for food, heat, and electricity? How do these people deal with unexpected high medical bills?

To make matters worse, many of these people have no access to banks or credit unions to provide them with the credit they need.

Last year I introduced H.R. 1909, which creates a Federal charter for non-bank lenders to provide small-dollar loans to underserved individuals who are in need of credit. And I was pleased to work with my good friend, Mr. Luetkemeyer, in introducing a new bill, and I would say we both have come together in trying to come to a compromise, and a better bill that addresses a lot of the problems, and this is something that has been going on for 3 years.

In working with him, we wanted to create safe, affordable, and innovative products that can be offered to those who need it. And those are the important reasons why we came up with this bill. H.R. 6139 creates a Federal charter under the OCC, and it will allow the OCC and the CFPB to work together to create again a safe and affordable credit option for underserved communities. Remember that, underserved communities can create an option. Instead of reinventing the wheel, this bill will work with what we have. It creates a Federal charter on unincorporated product institutions that are already in the market, increases access for struggling Americans across the country, and allows for experts innovation that is in the marketplace to grow and serve as many people as possible, and also allow for strong Federal regulatory oversight.

And to those claiming that this is a payday, as my good friend, Congressman Luetkemeyer said, this is not a payday bill; it should be noted that payday products specifically are banned by chartered institutions. Over the past few years, there have been many who have made all kinds of points as to why certain products don't work, or why they are predatory or why they only make the products work. The fact is problems were easy to talk about and they don't require responsibility. What we haven't discussed is a solution, and this is a solution, a solution that will involve, over time, recognizing the market, and the industries that are already in place, and law for Federal regulations in which all parties are involved. That is why I believe H.R. 6139 provides that solution. And with that, I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

I would like to ask unanimous consent from the subcommittee to allow Mr. Sessions 4 minutes for the purpose of making an introduction. Without objection, it is so ordered.

Mr. Sessions?

Mr. SESSIONS. Thank you very much, Chairwoman Capito, and thank you for allowing me to sit in with the subcommittee today, and I also thank your delightful ranking member and my colleagues on this subcommittee. During my first term in Congress, in 1997 and 1998, I had the opportunity to sit on this committee. I sat down front, and enjoyed many long debates and opportunities to understand the banking system. It has now become the Financial Services Committee, and your leadership, as well as the attention that these Members pay to this, is really very important.

I also am delighted to be with my dear friend, Ed Royce. I have always sat to his left, and somebody made a mistake today and put me over here today, and I thank you for that mistake.

Madam Chairwoman, today I am here to introduce a witness who will appear before the committee. I have the privilege of introducing a very successful Texas businesswoman, a great Texan, and a constituent of mine, my dear friend, Mary Jackson. Mary is senior vice president of corporate affairs and chief legislative officer for Cash America, Incorporated. Cash America is headquartered in Fort Worth, Texas, and provides financial products and services to consumers across the United States. She is representing her company and the Online Lenders Alliance, known as OLA, an association of U.S.-based online providers of consumer short-term loans. I have known Mary for over 20 years. She is a strong leader in the north Texas business community and an advocate for the free enterprise system. Mary is here today to testify about H.R. 6139, the Consumer Credit Access, Innovation, and Modernization Act of 2012.

My discussions with Mary have convinced me there are really three truths about this piece of legislation and the need for it. First, we have a serious credit gap in America, as has been noted by our speakers earlier today. Americans of modest means do not have adequate or acceptable access to financial credit products and services on a day-to-day basis, especially in the event of an emergency.

Second, our Federal policies, both the Federal Reserve's efforts to make credit available and reliance on traditional sources, I believe have fallen short. The nondepository lenders such as Cash America and other OLAs could be a responsible and significant provider in this necessary and needed marketplace and could be a part of that solution.

And finally, under H.R. 6139 the proposed federally-chartered lenders can and will provide new and innovative products and services, and more importantly, competition in an effort to provide more and better credit options to so many hard-working Americans who need to access credit and be able to know that they can help their families in times of need.

I appreciate you allowing this hearing to take place today, and I thank the gentlewoman and the ranking member for allowing me to sit in for a few minutes with this opportunity today to hear about this bill. Thank you very much. I yield back the balance of my time.

Chairwoman CAPITO. Thank you.

Mr. Hinojosa for 3 minutes.

Mr. HINOJOSA. Thank you, Chairwoman Capito, and Ranking Member Maloney. Today, we are discussing whether to give the Office of the Comptroller of the Currency the power to grant Federal charters to certain non-bank institutions. While I believe that the stated goal of my colleagues to increase the amount of credit to the underserved and unbanked populations is noble, and something that is necessary, I believe that this bill approaches it from the wrong direction, and I warrant to explain why.

Two years ago this month, we passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which set up the Consumer Financial Protection Bureau, or what we call the CFPB. In its 18 months of existence, the Bureau has made great strides in writing rules and beginning supervision of the non-bank financial institutions that have eluded supervision for so long.

I believe that to take these particular non-bank institutions out of the jurisdiction of the Bureau is premature, and that we should allow the CFPB to finish completing its rulemaking on non-bank supervision.

The Office of the Comptroller of the Currency is represented here today, and according to submitted testimony that I read, they do not support the policy put forth by this bill, which is significant considering that they would be the ones in charge of doling out Federal charters.

I look forward to hearing the testimony today. I hope that it addresses some of my concerns for my district and for my State of Texas and helps to push the dialogue about how best to serve the underbanked and unbanked constituents that I represent. I yield back.

Chairwoman CAPITO. Thank you.

That concludes our opening statements, and I would now like to introduce the first panel of witnesses.

I will recognize each one of you for purpose of making a 5-minute statement. Our first witness is Ms. Grovetta Gardineer, Deputy Comptroller for Compliance Policy, Office of the Comptroller of the Currency. Welcome.

STATEMENTS OF GROVETTA GARDINEER, DEPUTY COMPTROLLER FOR COMPLIANCE POLICY, OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)

Ms. GARDINEER. Thank you. Good morning, Chairwoman Capito, Ranking Member Maloney, and members of the subcommittee. I appreciate the opportunity to discuss the Consumer Credit Access, Innovation, and Modernization Act. Providing responsible financial services to underserved consumers is an important goal, but this legislation would harm minority populations, low-income neighborhoods, and communities with concentrations of our military servicemembers. In addition, it would encourage the development of businesses with unsafe and unsound concentrations in products that have serious consumer protection and safety and soundness concerns.

My testimony provides a summary of our understanding of the bill, and gets into greater detail about each of these risks. During my remarks this morning, I will highlight just a few of our concerns. First, H.R. 6139 would adversely affect the consumers that it intends to help most. This bill would provide special status and Federal benefits to companies and third-party vendors that would primarily offer credit products and services that carry greater risks or cost for consumers who lack access to more traditional bank products. We anticipate that such companies will request approval to offer products that include payday loans, tax refund anticipation loans, and car title loans. Our experience with these products is that they depend on high fees, repetitive use, high default, and severely weak legal compliance.

Consumer interest groups have voiced similar concerns that these products trap consumers in a cycle of debt and prevent their access to safer, more traditional credit and banking services that could better meet their needs.

We are also concerned that H.R. 6139 would negate many actions that Congress, the OCC, and other regulators have taken to safeguard consumers from the risks of these types of products.

First, this bill prohibits establishing usury caps where otherwise appropriate. This prohibition could significantly reduce specific limits established by Congress and many States. For example, it could eliminate protection for members of America's Armed Forces. The cap to annual percentage rate of payday loans, auto title loans or tax refund loans extended to cover persons at 36 percent.

Second, H.R. 6139 would create a class of federally-chartered institutions with serious safety and soundness concerns. Our supervisory experience suggests that in addition to consumer protection issues, companies chartered under this bill rely on products that pose serious compliance BSA/AML and other operational risks.

H.R. 6139 would direct the OCC to encourage joint ventures between credit corporations and third-party vendors to facilitate innovative products and services. Our experience teaches us that dependence on third-party providers to originate or deliver such products and services can create serious compliance risks. Such vendors often lack the requisite systems and procedures to comply with the myriad of BSA and AML and other regulations and risk management practices that are essential to the safe and sound conduct of these activities. The Comptroller recently singled out weak third-party oversight as a significant contributor to operational risk.

Companies chartered under the bill also face significant BSA/AML exposure, because of their dependence on products with remote deposit capture characteristics, the lack of long-term customer relationships, and the ability of money launderers to exploit weaker monitoring and reporting processes.

In addition, companies chartered under the bill faced significant concentration risk because of their limited business models that can threaten their viability if underlying market conditions deteriorate. These risks are magnified for firms that lack stable funding and depend on non-deposit wholesale funding. Because of these risks, these are products and services that the OCC has largely extinguished from the national banking system. And we would not support, license or charter an institution concentrating in these services today.

Finally, the OCC agrees that consistent and uniform standards provide benefits for both consumers and businesses, but we believe authority already exists to achieve these goals. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorized the Consumer Financial Protection Bureau to adopt standards for financial consumer products and services without regard to whether they are offered by banks, non-banks, or State- or federally-supervised institutions. The CFPB has general authority to supervise and regulate non-bank lenders, including payday lenders and large non-bank participants and consumer credit and services, and will be conducting examinations of such companies.

In summary, the OCC is concerned that H.R. 6139 could have unintended and undesirable effects on the population it is intended to benefit. H.R. 6139 raises serious consumer protection, compliance, and safety and soundness concerns by creating a national charter for companies concentrating on products most prone to abuse and that are most often targeted to minority populations, low-income neighborhoods, and communities with high concentration of our military servicemembers.

Furthermore, where the services are offered, State officials and the CFPB already have adequate authority to regulate these products and the companies that provide them. The OCC shares the authors' goal of providing financial services to underserved communities and unbanked populations and we look forward to working with the members of the subcommittee to achieve that goal. Thank you very much.

[The prepared statement of Deputy Comptroller Gardineer can be found on page 114 of the appendix.]

Chairwoman CAPITO. Thank you.

Our next witness is the Honorable John Munn, director of banking and finance, State of Nebraska, Department of Banking and Finance. Welcome.

STATEMENT OF THE HONORABLE JOHN MUNN, DIRECTOR, BANKING AND FINANCE, STATE OF NEBRASKA DEPARTMENT OF BANKING AND FINANCE, ON BEHALF OF THE CONFERENCE OF STATE BANK SUPERVISORS (CSBS)

Mr. MUNN. Good morning, Chairwoman Capito, Ranking Member Maloney, and distinguished members of the subcommittee. My name is John Munn, and I serve as the director of the Nebraska Department of Banking and Finance. It is my pleasure today to testify to you on behalf of CSBS. State regulators play a central role in overseeing the nondepository consumer credit industries. And we appreciate the opportunity to be part of this important discussion.

I applaud the efforts of Representatives Baca and Luetkemeyer and their colleagues to make financial services and products available for unbanked and underbanked consumers. While we recognize that providing these individuals with access to financial services and products is an important objective, we have significant concerns about H.R. 1909 and H.R. 6139.

First, we are concerned the bills would establish an option for a Federal business charter without meeting the necessarily high thresholds that Congress has traditionally required for receiving such a benefit. Historically, Congress has created Federal charters only in highly limited circumstances. In fact, most industries and businesses—large and small—in the United States thrive and meet important consumer needs very successfully without a Federal charter.

Second, the bills would circumvent our ability to establish and enforce laws governing the financial services providers. The current legal structures governing the types of businesses covered by the two bills have long-standing foundations in State law. The citizens of each State have determined what financial services companies and what products are available to them.

In my home State of Nebraska, much of the legal structure around payday lenders was adopted in the early 1990s. At that time, our legislature made the decision to take these businesses out of unregulated back alleys and away from loan sharks and to place them into regulated storefronts. The result of this action was to preserve access to these services and products but with more protection for consumers and accountability for the industry.

In 2010, Nebraska had approximately 115 licensed payday lenders, and these companies reported a 20 percent net profit after taxes.

Finally, the bills would undermine the carefully structured State-Federal balance in financial services regulation. The State law structures and processes governing financial services providers are complimented by our Federal partners. These partnerships leverage the benefits and strengths of each side of the relationship. States serve as the front-line licensing and regulatory authority ensuring that companies wishing to offer such services meet certain minimum requirements and comply with State and Federal laws. The Federal component brings a perspective that reinforces without supplanting State authority.

Members of Congress on both sides of the aisle and in both Chambers have repeatedly voted to keep existing State regulatory regimes. Unfortunately, both bills run contrary to the goal of State-Federal collaboration and will fundamentally undo our existing partnership. As State regulators, we benefit from our proximity to the consumer transaction and to the communities served by the financial services providers. We hear firsthand about the regulatory burdens, and we see up close the consequences of bad actors. These bills take this perspective out of the picture to the detriment of the marketplace and of consumers.

The challenge for policymakers is to create a framework that ensures industry professionalism, accountability, and the proper alignment of incentives while avoiding unnecessary regulatory inefficiencies and burdens. For State regulators, regulatory collaboration and coordination have been vital to striking that balance. Thank you for the opportunity to appear today. I look forward to responding to any questions or thoughts the subcommittee may have.

[The prepared statement of Mr. Munn can be found on page 127 of the appendix.]

Chairwoman CAPITO. Thank you very much.

That concludes the testimony from panel one, and I will begin my 5 minutes of questioning.

The GAO recently studied depository institutions offering short-term, low-dollar loans—we all talked about this in our statements—and concluded that these products still are not very widely available. Given that many States either directly or indirectly have eliminated payday lending, does your agency intend to encourage these institutions that you regulate to move into this market and meet the rising consumer demand for short-term, low-dollar products?

Ms. GARDINEER. Madam Chairwoman, the OCC continues to encourage the institutions that we regulate to meet the credit needs of low- and moderate-income individuals in this country, and we agree that more can be done to achieve that. We encourage them to issue affordable credit, and we oftentimes make sure they understand that they can get favorable CRA recognition by doing so.

However, our concerns with regard to this bill are that in our experience, we have issued guidance because of the concerns and the problems we have seen with the harm that these types of products have brought to consumers in the past. So we know we can do more and more needs to be done and we are certainly willing to work with the committee, as well as our State partners and other Federal regulators to achieve those goals.

Chairwoman CAPITO. Mr. Munn, let me ask you, let's use your State of Nebraska as sort of a sample. What availabilities do you have in Nebraska that are State-regulated for this type of lending? Do you have payday lenders?

Mr. MUNN. Yes, we have payday lenders. We license small loan companies in addition to the 173 banks and 18 credit unions that we supervise.

Chairwoman CAPITO. Do the institutions that you regulate make tax refund anticipation loans and those—

Mr. MUNN. No, they do not.

Chairwoman CAPITO. So those have been specifically banned through State statute?

Mr. MUNN. Not specifically; I think more because of regulatory scrutiny of those practices.

Chairwoman CAPITO. As a regulator, what product concerns you the most in terms of being maybe unfair or difficult for a consumer in this high-risk, low-dollar area?

Mr. MUNN. I think the burden in payday lending improperly granted the debt cycle it has created is maybe the most worrisome, and the cost that leads to for the individual consumers.

Chairwoman CAPITO. The loss—most of those loans are supposed to be repaid in relatively short periods of time, correct?

Mr. MUNN. Yes, they are. And while we have a law that prohibits same-day transactions as far as going in paying interest and renewing that transaction, often the gap isn't very far between. Also, in Nebraska, you can go to different payday licensees for an additional advance having paid off one payday lender.

Chairwoman CAPITO. So you could go to one, and then go to another. You can do that in Nebraska?

Mr. MUNN. Yes, you can.

Chairwoman CAPITO. I would imagine—I am from West Virginia, a small State. We have low socioeconomics in some cases, a lot of elderly people. I am certain that is the case with everybody here, but you have heard the statistics, and I am directing to both of you really, of folks who can't get a $2,000 loan for whatever, tires for the car or anything, a medical emergency. What options—are we going to push everybody to the Internet for Internet lending, is that something that falls in the bailiwick of this type of regulatory environment? What suggestions can you make to try to solve this problem?

I know, Ms. Gardineer, you said we are encouraging our institutions to do this, but the reality is I am not sure they really are doing it, and if they are, I am not sure that is maybe in the magnitude to solve an issue here. I think we all acknowledge there is an issue here.

Mr. Munn, do you want to start?

Mr. MUNN. Absolutely. Being from a rural State as I am, which I think applies to your State, I think maybe we have better support systems in place for those situations, oftentimes in the car repair situation you mentioned, the shop doing the repair would allow the individual to do it in payments. About 20 percent of our credit unions in Nebraska, both federally- and State-chartered, have initiated quick cash programs with an 18 percent interest rate which keeps it within our State usury rate, therefore, they have the ability to structure, they will allow up to 60 days, keeps the APR much lower than it does when you compute the APR on payday loans.

Chairwoman CAPITO. Did you have something to add, Ms. Gardineer?

Ms. GARDINEER. Yes, I believe that we all recognize that there is a problem here and there is a need for enhanced access to credit, but I think that is part of the issue that we see with the bill. We have great concerns about increasing consumers' access to building their creditworthiness here. And in many ways, what we see is access to transactions that perhaps provide money, but don't necessarily provide the credit-building relationship that we think is vital to these consumers as they begin to get these small-dollar loans.

Chairwoman CAPITO. I am going to have to stop you there, because I am going to run out of time, I am sure we will get into the rest.

Mrs. Maloney for 5 minutes.

Mrs. MALONEY. So Ms. Gardineer, you agree that, or rather the OCC agrees that there is a credit gap in our country and a serious lack of credit access for Americans of limited means? I think you both agree that there is, is that an appropriate assessment?

I would say the OCC and State institutions have a responsibility to try to help meet these needs. And Mr. Munn, you mentioned the credit unions' efforts with the quick cash deal. What is the OCC doing to help fill that gap? What would you recommend, if you are opposed to the bill, how would you recommend that you fill the gap for the people who do need access to short-term credit?

Ms. GARDINEER. I think what the OCC—

Mrs. MALONEY. To build credit scores, as you said.

Ms. GARDINEER. In order to help consumers build their credit relationships, I think what we don't want to see is the unintended consequences of the harmful effects that could come from some of these products and services that, in our experience, we have seen have done more harm than good in helping these consumers meet those credit needs.

So our concern is not that there is a lack of access to low-dollar loans. However, we do think that they have to be done in a very prudent and safe and sound way, and our concerns are not limited only to the consumer protection issues, but we also see the significant concerns we have with the safety and soundness issues that come with the offering of these products and services as well.

As I mentioned in my statement, and as reflected in my testimony, there is a significant amount of oversight required with regard to BSA and AML compliance that oftentimes is extremely expensive and could certainly undermine the economic viability that the bill seeks to have these companies achieve in order to be profitable, but meet credit needs of these individuals.

So again, we want to work with you to look at the innovations that could be offered, but we are fearful based on our supervisory experience.

Mrs. MALONEY. You have commented in your statement that you want to serve underserved communities and unbanked populations, but I am not hearing and you don't want any abuses, and you want to protect them, and you want to help them build their credit scores, and I think that is all great, but how? Where does the mother whose car broke down and desperately needs $2,000, where does she go to get a loan that she needs? Would the quick loans that the credit unions have give a loan as low as $2,000? And what are the answers, you are saying what you are against, but you are not saying what you are for. How do we help this unbanked, underserved, really needy population?

Ms. GARDINEER. I think that the goal of the bill is to foster and encourage the innovative products and services. And we do support the goal of that bill.

Mrs. MALONEY. Do you have any ideas for innovative products or services or how we would serve this population, either of you? I agree that you want to protect consumers, I am with you 100 percent, and you want to build credit, but you are not saying how you would do this, how that would happen.

Ms. GARDINEER. I think what the bill structure actually anticipates as far as the OCC's ability to charter and approve these products and services is not to—and I think there may be language in the bill that specifically addresses we are not to create these products, but we are to evaluate them, that would be what would be asked of the agency. And our concerns, again, Congresswoman, that we—

Mrs. MALONEY. You testified you find them unsafe and unsound, but I am looking for solutions. Mr. Munn, would the credit unions give $2,000 loans, or do you have any other solutions that would be safe and sound?

Mr. MUNN. No, the largest loan in the program in Nebraska is $500 for a 60-day period.

Mrs. MALONEY. Is that a national program or is that just in your State?

Mr. MUNN. I believe they developed it on their own.

Mrs. MALONEY. I would say pawnbrokers, too, are a source, wouldn't you say?

Mr. MUNN. They can be. We do not regulate pawnbrokers in Nebraska. We should give credit to financial institutions we supervise for tremendous efforts at financial literacy to try and address the problem hopefully before it develops, as low as elementary school, and even up through senior citizens' events. As far as appropriate budgeting, savings and also they're very quick to refer people to financial counselors, if they are unable to assist them with a loan.

Chairwoman CAPITO. Thank you. Mr. Renacci for 5 minutes.

Mr. RENACCI. Thank you, Madam Chairwoman, and I want to thank the witnesses this morning for being here. Ms. Gardineer, you indicated in one of your responses that the OCC encourages low-dollar, short-term loans, correct?

Ms. GARDINEER. Yes.

Mr. RENACCI. And the Center for Financial Services Innovation conducted a study in 2008 that found as much as 75 percent of the unbanked and the underbanked population had credit scores that would be considered subprime or lack enough credit history to generate any score at all. Do the financial institutions that you regulate which offer short-term, low-dollar loans require the borrower to have above-average credit?

Ms. GARDINEER. I am sure that the institutions that we regulate require the consumers to have the ability to repay, and to be able to demonstrate that.

Mr. RENACCI. But if they had below average credit or no credit score at all, would those banks that you regulate loan money out to those individuals?

Ms. GARDINEER. I believe I can say we would be concerned with that type of lending activity.

Mr. RENACCI. You would be concerned with that? So how do those individuals build a credit score, and at the same time, how are they able to borrow the money that they need for short-term emergencies?

Ms. GARDINEER. I think one of the things that we need to do is take a more holistic approach to how we deal with this problem. And by that, I think we recognize that a lot of these consumers do have access to these types of products now, and they are clearly regulated by the States. What I think we would like to see is the creation—with the creation of the CFPB, there is now a framework of a Federal agency that can issue very robust guidelines to lending standards that could be applied on a national scale. And by doing that, you would ensure that consumers would have the very protections that I think the bill seeks to introduce.

Mr. RENACCI. I have to interrupt you. Your explanation has nothing to do with how the individuals build their credit score; you are talking about the CFPB and standards. We have individuals that need dollars today, need to be able to borrow money today, don't have a credit score, want to go to these organizations, and you have haven't answered how they get that money, or how they are able to borrow that money.

Ms. GARDINEER. The lending standards of financial institutions regulated by the OCC would require a demonstration of a borrower's ability to repay, as I said earlier. One of the concerns that we pointed out with the bill is not only that consumers have access to cash, but begin to rebuild their credit. We have concerns with some of the products and services we think we would see from some of the companies that would be chartered, such as reloadable prepaid cards.

Mr. RENACCI. I don't mean to interrupt you, but I only have so much time. How about those people who have the ability to pay but have low credit scores? I keep getting back to the same thing and we keep going off in a different direction. There are some who have no credit score but have the ability to pay, and those who have a low credit score but have the ability to pay. Does the OCC promote those type of loans, for small banks to loan out money?

Ms. GARDINEER. We encourage our institutions to make these types of loans, but there is a regulatory framework within which prudent loans need to be made. And we do believe that while meeting the needs of these consumers is paramount to the bill, and we certainly support the goals, they have to be done in a prudent manner and in a safe and sound manner.

Mr. RENACCI. Let's go to the institutions that you regulate in offering short-term, low-dollar loans, can you tell me has that increased or decreased over the last decade?

Ms. GARDINEER. I don't have the data to support that, but I can get that and get back to you.

Mr. RENACCI. Okay. Mr. Munn, quickly, can you comment on the importance of being able to share information between regulators and securing confidential manner?

Mr. MUNN. We are in a new environment, especially with the CFPB primarily, and the ability to share among financial regulators, both State and Federal, and law enforcement is key, not only in Bank Secrecy Act and money laundering efforts, but also just in general as to character issues.

Mr. RENACCI. I have introduced legislation, H.R. 6125, to ensure that information can be shared among regulators in a manner that ensures confidentiality and privilege protection stay in place. Can you give me your thoughts on that, and do you believe it is necessary?

Mr. MUNN. It is necessary and needed, because there is a wide array of regulatory bodies out there now, especially from State to State. And having access to information about, especially bad actors, is key to us being effective regulators.

Mr. RENACCI. Thank you, I yield back.

Chairwoman CAPITO. Thank you. Mr. Baca for 5 minutes.

Mr. BACA. Thank you, Madam Chairwoman. Ms. Gardineer, in your testimony you raise the objection to a 45-day review period for the approved product that the OCC would be required to follow stating that it would be too quick to turn around. For chartered banks that you currently oversee, what is your typical review process for new credit products and how long does it take—how long would you propose the review period be for short-term products?

Ms. GARDINEER. I think the 45 days is taken in context with the language of the bill and the OCC's expectations in reviewing and approving the products. So the bill requires the OCC to make a determination that the products and services would significantly harm the interest of underserved consumers, or small businesses, which we believe would require us to prove a negative, based on activities that have not yet been conducted. Generally—

Mr. BACA. What proof would you be able to do that in determining that, that it would do harm? You said it would do harm.

Ms. GARDINEER. That is the standard that is outlined in the bill, that the OCC would have to apply in order to disapprove a bill.

Mr. BACA. We don't really know if it would do harm or not.

Ms. GARDINEER. Exactly. So in order to meet that standard in evaluating the product or services and the only way that the OCC could disapprove any of the products or services offered by one of these companies would be to meet that standard, and to meet it within a 45-day period. I think the bill provides that if the OCC does not act within that 45 days, the product or service is deemed to be approved, and at that point cannot only be offered to low-income, underbanked—

Mr. BACA. Let me ask an additional question. In your testimony you infer that under the bill, the lines between the OCC's authority and the CFPB's authority would be unclear. Doesn't the bill initially leave the CFPB essentially intact with its consumer protection authority under the Frank Dodd? And moreover, can you point to any part of the bill that would allow the OCC to overturn any determination made by the CFPB that a product is abusive or predatory?

Ms. GARDINEER. I think what we looked at is the concerns raised by the bill in its current form that would require the OCC to create disclosure for these types of products. The issue that we see and what I addressed in the bill is the exemption for certain types of disclosure under the Truth in Lending Act (TILA), which the CFPB now administers. And if certain disclosure would not be required for the short-term loans that would be part of the offers presumed by these companies, then there could be confusion with regard to consumers who would not necessarily benefit from the protections under TILA for the disclosures of APRs, for example. So those are some of the concerns that we referenced in our testimony today.

Mr. BACA. You also make the point that we should turn our attention to small-dollar loans authorized by Dodd-Frank which, to date, has not received $1 of Federal funds or had any funds requested by either the President or Congress. If this program were funded, the program would only be successful as much as the appropriated funds allow it to be. And I am not sure if you have been aware of the current political debate of the Federal spending has not been something that Congress has been able to agree on. Considering all of this, what would be your solution for the growing credit divide, and why should the CFPB be able to oversee the Federal charter, even though it is not what they were constructed to do? How does a program that has never been funded allow for small-dollar loans? And how much Federal funds would it take for this program to really make some of the progress in today's current economy?

Ms. GARDINEER. Congressman, I don't know how much money it would take to make such a program successful. We could certainly go back and see if there are folks at the OCC who could develop data and we could get back to you on that. With regard to the CFPB, what I am suggesting is that the Dodd-Frank Wall Street Act created the CFPB and gave them the authority to issue broad standards and guidelines that would cover both banking and nonbanking entities. And in order to maintain a level of consistency and consumer protection, we believe that robust guidelines that would be issued by the Bureau would better help to achieve the goals of the bill.

Mr. BACA. Did my time run out?

Chairwoman CAPITO. Your time has run out.

Mr. BACA. Oh, okay.

Chairwoman CAPITO. Thank you.

Mr. Royce for 5 minutes.

Mr. ROYCE. Yes.

Ms. Gardineer, you mentioned several times in your testimony that the OCC has some concerns with this legislation in regard to money laundering and the Bank Secrecy Act. It sounds as if you are saying that this legislation, which creates a Federal nexus for some of these institutions, would weaken certain money-laundering provisions, or you have some concerns with that. I wondered if you could explain that to me.

Ms. GARDINEER. Of course. Certain of these products and services would utilize products that we believe would facilitate money laundering. In our experience, one of the things we know is that the cost of controls, in order to have an effective BSA/AML program in a financial institution, is extremely costly. Not only that, there is a myriad of oversight that is required to meet the very complex set of regulations and rules that have been put into place to protect against the BSA/AML concerns.

This is pretty much echoed by FinCEN, which recently promulgated rules to address prepaid cards, a product that we believe would be utilized by many of these companies to offer transactional-type services to the underbanked and unbanked that are targeted in the bill.

Mr. ROYCE. The thing that is concerning, I think, is the presumption that the OCC would not be capable of adequately safeguarding this sector when it comes to the anti-money laundering provisions, because what we are talking about here is a system of attempting to address offshore sites, to address these tribal entities that are involved in the business. And, again, it would seem to me that with a Federal nexus here, this would give you the wherewithal to monitor this more effectively.

We currently have a situation where you have offshore companies, you have Indian tribes playing a very large role and an ever-increasing role in this sector. So it would seem that, again, giving a Federal regulator some oversight, that fact would actually increase the safeguards on this front.

Today, FinCEN is forced, if you think it through, to work with 50-plus State regulators, all the State regulators and the District of Columbia. That can't be an ideal structure for trying to detect money laundering through the United States.

In a way, you are arguing against the ability of the OCC to do an effective job on this front, and, of course, we had recently in the Senate that study about the OCC's failure in this regard. But I would think that in many ways, this would help give you the tools to pull that together.

Ms. GARDINEER. I think the issue that we have identified, Congressman, is not one of our oversight, but it is the issue of expanding the market for these products. By providing this specific Federal charter, you would now be allowing products and services that in our experience, we have identified as not only having safety and soundness concerns, but consumer protection concerns as well.

Mr. ROYCE. All overseen by the OCC here.

Ms. GARDINEER. And my analogy to what you are talking about is the issues that we saw growing from the subprime market with regard to real estate. Subprime products had been around for many, many years, but generally offered to a very niche group of individuals. It was the expansion of that product to a broader demographic and across the country that led to a significant downfall with regard to the real estate crisis that we saw.

So the expansion of the products into the marketplace is where we ground our concern with regard to the growing AML and BSA concerns that we have identified.

Mr. ROYCE. Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

Mr. Hinojosa for 5 minutes.

Mr. HINOJOSA. Thank you.

I thank the distinguished panelists for your testimony. It seems to me, just like my colleagues who sponsored this legislation, I am concerned about the availability of credit and the type of financial products available to our most underserved communities. Hidalgo County in my congressional district in deep south Texas has a population of nearly 800,000, and it is the most unbanked county, with over 100,000 low-income households, many of whom are unbanked or underbanked. I have concerns that stripping the Consumer Financial Protection Bureau of their role to oversee non-bank small lenders will dilute their ability to comprehensively protect the underbanked and non-banked in my district. Supporters of the new proposal argue that it does not in any way remove the authority of the Bureau to examine, to issue regulations, or to enforce rules regarding these lenders.

So my question to you, Ms. Gardineer is, do you believe that granting the OCC the authority to issue formal approval of these consumer products could undermine a later Bureau finding that the practices are abusive?

Ms. GARDINEER. I think that given the current structure of the CFPB and its role to evaluate and study consumer products and services, it is vital under the Dodd-Frank Act that the CFPB have the ability to issue national standards with regard to the offering of lending products. This safeguard exists currently today in our statutory structure.

Mr. HINOJOSA. Are you concerned that the OCC does not have the resources to provide sufficient oversight of a completely new class of financial entity such as small-dollar lenders?

Ms. GARDINEER. It is certain risks that we have identified that we believe with the expansion into the market would do more harm than good and create—

Mr. HINOJOSA. But you don't understand. We only have 800 people in the Bureau. We need 1,200 to be fully staffed. So that is what my question was about, and I didn't get an answer.

I have a question for Mr. John Munn. Is there a compelling national interest to establish a Federal charter in this area, and what gaps in regulation do you believe this bill is looking to close?

Mr. MUNN. I see no compelling need for a Federal charter, as these bills would basically gut State regulation. We feel we are the feet on the ground.

In regard to the question about the Bank Secrecy Act and any money laundering, the information that is used in that pursuit flows up from the institutions we supervise, and the majority of institutions are State-chartered or regulated.

Mr. HINOJOSA. Thank you for clarifying that.

How does Nebraska's licensing scheme and enforcement mechanism differ from what would be in place if this bill were enacted?

Mr. MUNN. We license on a county basis, which gives us a much smaller area in which to monitor the performance of a payday lender. We have a limit as to the fees that can be charged: $15 per $100. A licensed payday lender may not hold more than two checks from an individual at any one time. A check may not be held for more than 34 days, and the checks in the aggregate cannot exceed $500.

Mr. HINOJOSA. So how do States differ now in their regulation of the non-bank lenders? What kinds of protections are in place that could be preempted if this bill were enacted?

Mr. MUNN. I think those States that have a central registry of payday-lending transactions where each licensee needs to forward electronically a notation of an advance to an individual would be a way in which they can coordinate amongst them so that the use of payday lending advances is appropriate.

Mr. HINOJOSA. My final question: Would the bill undermine our States' authority to license and regulate non-bank financial service providers?

Mr. MUNN. Absolutely.

Mr. HINOJOSA. I yield back.

Chairwoman CAPITO. The gentleman yields back.

Mr. Luetkemeyer?

Mr. LUETKEMEYER. Thank you, Madam Chairwoman.

I would like to follow up for just a second with Mr. Munn.

So far, Mr. Munn, you have been talking about payday lending and H.R. 1909, and none of that is what we are talking about today. We are talking about our bill, H.R. 6139, which does not allow payday lending, number one. Number two, all of the lending that is in there is beyond 30 days.

So my question to you is, you made the comment a minute ago that there is no compelling need in your State for small-dollar lending. Is that what you just said?

Mr. MUNN. Yes. No, I am sorry, the question was, is there a compelling need for a Federal charter.

Mr. LUETKEMEYER. A Federal charter, right. But you don't have anybody whose—you don't allow lending above $500 for small-dollar loans; is that correct?

Mr. MUNN. As far as payday lending advances, yes. As far as small loan companies, they may loan to whatever limit they feel is appropriate.

Mr. LUETKEMEYER. Okay. We have a situation, though, in your State, you may not be aware of it, but about 900 people a day go online to find other sources of lending. Does that concern you at all?

Mr. MUNN. Absolutely. I am concerned about how do they know that they are working with a valid entity on the other end?

Mr. LUETKEMEYER. Thank you very much. You just made my point. I think it is very important that we do that as well, and that is what this bill is trying to do. Because what they are doing is going offshore. They are going to tribal locations where they are loaning online. And what this bill tries to do is allow a Federal charter to take those folks into consideration to allow them access to that credit so that it can be controlled. And it is not out of—and it addresses your concerns and makes sure that it is done in a safe and sound way. Would you agree with that?

Mr. MUNN. How will the individual know, the consumer, when they go online, that they are interacting with a licensed supervised payday lender? I did a search—

Mr. LUETKEMEYER. Wait. Timeout. We are not doing payday lending. This is not payday lending.

Mr. MUNN. Is there going to be a prepayment penalty if somebody repays a 30-day advance?

Mr. LUETKEMEYER. No. There is no prepayment penalty. Have you read the bill? There is no prepayment penalty in this.

Ms. Gardineer, let me talk to you a little bit. Obviously, Mr. Munn hasn't read the bill, so it is going to be difficult to ask him any questions about it.

With regard to you, you keep talking about a number of things here that keep going back and forth, back and forth, with regard to the issues that we are talking about. First, you say traditional banking is not working. You made the comment that you want to extinguish small lending from the banking system, yet you want to work with our banks to make sure that they can provide for the folks who are in need, who are on the line with their lives and their livelihoods, who just need a small-dollar loan, yet you have no solutions. Your solution was a prepaid card.

If I am not mistaken, you have to buy the prepaid card with money; do you not?

Mr. MUNN. I assume so.

Mr. LUETKEMEYER. How does that solve the problem? Mr. Munn, I am asking the question of Ms. Gardineer. Thank you.

Ms. GARDINEER. This was just an example of the types of products and services we believe would be utilized in order to provide the loans that are contemplated under the bill.

Mr. LUETKEMEYER. That prepaid card is not a loan.

Ms. GARDINEER. No, it is not.

Mr. LUETKEMEYER. No, it is not. Thank you very much.

Another question for you. You are talking about a problem building credit history. We had a hearing here not too long ago with regard to the folks who rent to own, and it is very interesting that during the course of the discussion, many people testified that to rent to own was a great way to establish their credit history to be able to go back then and be able to get a normal loan.

You don't believe that people being able to get a short-term loan, most of whom pay it back—in fact, I was the chairman of the Financial Services Committee when I was in Missouri, and we were working very long and hard on all of these small-dollar lending folks like this, and we had fewer complaints about them than we did the banking industry. Why? Because the people come in, they have a particular need, and they go in and address it, and they take care of their business. That is the way they establish credit. I think that is important, don't you?

Ms. GARDINEER. I agree that it is important to establish credit. Our experience, however, has shown that the types of products and services that the OCC has reviewed and taken great steps to issue guidance to protect consumers and enforcement actions to deal with the high cost of the fees, the rollover and the unsustainable debt that we believe consumers can be trapped in is of a greater concern and does not help them build credit.

Mr. LUETKEMEYER. You keep looking at the glass as if it is half empty. I think it ought to be half full. I look at this as an opportunity to help people if it is structured correctly. You keep telling me that the OCC can't do this, it can't do that; we are looking for this, we are looking for that.

We are giving you the authority in this bill to be able to work with the individuals who want to do this type of lending and create an environment that will work for not only the lender, but for the person who is getting the money as well, and works for you to be able to regulate this. The CFPB is involved in this. This is a collaborative effort on all people's part to be able to offer a product that helps everybody in this situation.

I am really curious, and I have another question in regards to safety and soundness, but I will leave that for another day. I see that my time is up.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

Mr. Scott for 5 minutes.

Mr. SCOTT. Thank you, Madam Chairwoman.

Here is what I think is wrong with this—that is a challenge with this bill. KPMG did a study, a very, very effective study, that said that there are 30 million Americans who are either unbanked or underbanked, and my problem with H.R. 6139 is that you have in this bill a $5,000 unsecured credit limit and a $25,000 secured credit limit, both of which the OCC can raise. That is correct; is it not?

Ms. GARDINEER. Yes.

Mr. SCOTT. All right. Can you explain to me the justification for such a high required level of credit? And what about those folks who simply need $2,000 or $3,000 and where the bulk of these 30 million are impacted? How do you justify this high limit?

Ms. GARDINEER. Congressman, these are issues with the bill that we have identified in our testimony. The bill would actually allow short-term loans that could be greater than 30 days. They could be secured. They could be secured by salary payments, if you will. They could be high cost. They could have rollovers. They could, of course, increase the cycle of debt, the very thing that we believe is not the goal of the bill, but could certainly be the unintended consequence of the bill.

Again, what we believe we have seen in our experience is a construct of the bill that would essentially require us to charter companies as national consumer credit corporations against—and have as a part of those new charters companies against which we already have cease-and-desist orders outstanding for offering the very types of products that trap consumers into a cycle of debt that we think is more abusive.

Mr. SCOTT. Could you share with us what potential implications would result from this requirement, from this high level?

Ms. GARDINEER. I think what we see with regard to the high dollar amount is it doesn't actually achieve the goal that we have identified with regard to underbanked and unbanked. There is a range here with regard to the dollar amounts, as you have pointed out, the $5,000 unsecured, $25,000 secured credit. But in the discussions and the studies that we have read, oftentimes consumers are seeking much smaller dollar amounts in order to meet their short-term needs.

Again, our concern is if the goal of the bill is to help consumers build their creditworthiness, but these unintended consequences that could sustain a cycle of debt with these types of fees is the result, then we haven't actually achieved the goal of helping the consumer.

Mr. SCOTT. So you agree with me that this is a major shortcoming of this bill?

Ms. GARDINEER. I agree.

Mr. SCOTT. Now, let me ask you about this issue of the overlapping between the OCC and the CFPB. What are your concerns there? Isn't there a danger here that when you have this overlapping, when you bring in another agency and you have one in place that is just getting really under way, and we are still faced with efforts of trying to disavow that, doesn't that bring out a sense of uncertainty and unpredictability of who is in charge of what, and isn't that another basic flaw in this approach?

Ms. GARDINEER. I think what would be created under the bill is the OCC having the authority to charter national consumer credit corporations and to then approve or disapprove, given the standard products and services that are presented to it within a 45-day period. That would seem to be in conflict with the current regulatory or statutory regime, rather, with the CFPB that has the authority currently to issue rules and guidelines that would create national lending standards that apply both to banking and non-banking entities and achieve that level of consistency that consumers need in order to make informed comparisons about the costs of low-dollar credit and the availability of that type of credit. The two agencies together, or the OCC having this authority, doesn't appear to be needed, given the authority of the CFPB currently.

Mr. SCOTT. Thank you very much.

Chairwoman CAPITO. Thank you.

Mr. Pearce for 5 minutes.

Mr. PEARCE. Thank you, Madam Chairwoman. I would like to yield a couple of minutes to Mr. Luetkemeyer.

Chairwoman CAPITO. Mr. Luetkemeyer is recognized.

Mr. LUETKEMEYER. Thank you, Mr. Pearce.

I just had a quick question with regards to safety and soundness, Ms. Gardineer. You made that comment a couple of times. Can you explain how a small-dollar lender has a safety and soundness problem?

Ms. GARDINEER. I think that the bill actually requires the OCC to encourage affiliations with third-party vendors, and as I mentioned in our testimony, the Comptroller very recently made a statement about third-party vendor oversight and the problems that it raises with operational risks on a safety and soundness basis.

Mr. LUETKEMEYER. You continue to go down this track, Ms. Gardineer, of saying, well, we have had this experience, and therefore it is a bad thing. Why don't we change the way we are doing business then and make it a good thing? You have the rule capability. You have the authority, working with the CFPB, to come up with new rules, new criteria. If it has to be capitalized differently, if it takes new management practices, that is fine.

But when you say safety and soundness, I have a real problem with that comment. As a former regulator, safety and soundness has a whole different meaning to me. When you impugn that the integrity of the institution is at risk, you are talking about safety and soundness. And we are talking about an institution that has no safety and soundness impact on this society or this whole regimen as a whole. We are looking at one individual institution that may or may not be in compliance, and you have power over that.

And I keep saying, you keep wanting to not say, well, we can't do a good job of overseeing it. If you can't do a good job overseeing a small-dollar lender, how in the world can you do a good job overseeing Bank of America and JPMorgan?

Ms. GARDINEER. The issues that I have raised, Congressman, deal with the third-party vendors who the OCC would be encouraged to have these—

Mr. LUETKEMEYER. Ma'am, with all due respect, if you don't want them to hook up with those lenders when they apply for their charter, you don't give it to them. You are in control. You act like you have no control over this, and yet this bill gives you the authority to do everything you want.

I yield back to my good friend from New Mexico. Thank you.

Mr. PEARCE. Thank you.

Mr. Munn, you talk about wanting to protect the consumer, and the great fault you find with the payday loans or whatever is just the charge, right, the amount of the charge; is that it?

Mr. MUNN. The—

Mr. PEARCE. So what is your real objection to the payday lending?

Mr. MUNN. I don't object to payday lending as a process. It is the law of the State, and I enforce State law. So I am neither in favor of it nor against it.

Mr. PEARCE. So you pass regulations in order to control what? Do you pass regulations—

Mr. MUNN. So that the business is in regulated storefronts.

Mr. PEARCE. So you would control the price of the products; is that right?

Mr. MUNN. That is correct.

Mr. PEARCE. Okay. And that is basically where you are coming from Ms. Gardineer; is that right?

Ms. GARDINEER. Yes, sir.

Mr. PEARCE. Now, would you both say that several hundred million dollars is an exorbitant amount to pay for a $140,000 or $150,000 loan, and the cost was several hundred million dollars? Wouldn't you say that is exorbitant?

Mr. MUNN. Yes.

Ms. GARDINEER. Yes.

Mr. PEARCE. There was a guy in New Mexico trying to get a $140,000 loan and couldn't find it. He just had an idea. He was willing to give up half his company stock for the $140,000. No one in New Mexico would take it on, so he moved to Seattle, and Bill Gates ended up paying somebody a lot of money for $140,000. Now, what you all would do is stop that completely, because that was a pretty large amount to pay, yet Bill Gates didn't mind. At the end of the day, he came out okay, I think; wouldn't you say?

Mr. MUNN. Absolutely.

Mr. PEARCE. He survived it.

The question I have at the end of the day is one a constituent put to me: If I want to borrow $100 today and pay $120 back at the end of the week, what business is it of yours, the government? It is a pretty similar question to what Bill Gates would have asked.

What we are going to do is regulate out the potential for this economy to thrive. We are going to regulate out every opportunity for anybody who is right now unbanked to find money. We are going to do that on credit cards. We are going to do it all the way up and down the row. Maybe we should just put out a warning that says, if you go out beyond here, you are on your own. We are not going to protect you at all. We don't know what is out there. You go here at your own risk.

But the idea we could regulate every breath that people take, every step that they make, every business decision, every crunch they get into is one that is doomed to fail. A government that intends to regulate everything has no freedom and no movement. We have plenty of examples of those economies in the word. Now, I don't want anybody cheated either, but I also want Bill Gates to find his $140,000 when he comes along.

Thank you.

Chairwoman CAPITO. The gentleman yields back.

I would like to ask for unanimous consent to insert a statement into the record from Mr. William Isaac. Without objection, it is so ordered.

Mr. Carney for 5 minutes.

Mr. CARNEY. Thank you, Madam Chairwoman. Thank you and the ranking member for having this hearing, and for the sponsors of the legislation and the witnesses today for coming to discuss what is a difficult issue and a serious problem for so many folks.

We had in here several months back a hearing with, I believe it was the FDIC, who had a pilot program to address the credit needs of the unbanked, and I think their target APR was like 38 percent. The report that they presented to us that day was that it was a miserable failure. They tried to get their member institutions to take up that program, and it was quite a failure.

I spoke to Richard Cordray before he was made the head of the CFPB, when he was the Chief Enforcement Officer, about payday lending and my concern about consumers and how they were addressed by that. He had field hearings, I understand, after that and found that there are a lot of people out there in communities across the country who need access to credit. They are not getting it from the banking institutions.

So, there is a real need out there. He said he had heard that. I know that all of my colleagues on both sides of the aisle are hearing that as well. So the question gets to be how do we address that need? It seems that the banking industry is not doing it, the regular banking industry, if you will.

Mr. Munn, I know you are here on behalf of, I guess, the Conference of State Bank Supervisors. Are you speaking on their behalf?

Mr. MUNN. Yes, I am.

Mr. CARNEY. Was there a process that you all or the organization went through to develop your position on the legislation that we are discussing today?

Mr. MUNN. Discussions between regulators, State regulators, happened both through CSBS and outside of CSBS, and gradually, I think, we have the benefit of understanding what is working in other States and what may not be working in other States.

Mr. CARNEY. So it is essentially the issue of preemption, from your perspective?

Mr. MUNN. Yes.

Mr. CARNEY. So you are regulating these kinds of lenders right now. What are the kinds of problems that you see?

Mr. MUNN. The problems that we see, we are very restrictive as to Internet, access to Internet payday lending. We require that a license—

Mr. CARNEY. By "we," do you mean in Nebraska or just generally?

Mr. MUNN. Excuse me, I am speaking in terms of Nebraska, as far as we require a physical presence within a State for that licensee to offer Internet payday lending so we have some office where we can go to to review the records.

Mr. CARNEY. Is that typical of other States?

Mr. MUNN. Yes, I believe it is.

Mr. CARNEY. What other kinds of things? In terms of—the biggest concern are these short-term loans that translate into an APR that we would otherwise think is excessive, but if you are looking for that $500 to pay for your new brake job or whatever, you are going to pay what you need to do.

Mr. MUNN. That is right.

Mr. CARNEY. Isn't that really the essence of the problem? Is that what you see at the State level?

Mr. MUNN. Each State sets its own caps on it. And, of course, there are 16 States that either don't allow it or have set the APR so low that payday lenders can't make money at it.

Mr. CARNEY. Is it the APR, or is it the continuing reupping if you will, taking an additional—the cycle of debt, if you will, that has been described earlier?

Mr. MUNN. I have not read the Pew study that just came out last week, but in reviewing the major points, I think they used the 5-month cycle of debt was common for people who go in for one payday advance.

Mr. CARNEY. Ms. Gardineer, you heard me talk about the need for this. What is the alternative? Is there a way to cure the legislation that we have before us, or is there a different approach? You didn't seem to have an answer in response to other Members who asked a similar question.

Ms. GARDINEER. In looking at the legislation and preparing the testimony today, we offered our observations on the bill presented in front of us. The OCC would be willing to work with any of the Members, the committee, and the other Federal regulators to address the needs of short-term credit, but I don't have today any additional ways that we could do that.

Mr. CARNEY. I think you may have suggested to try to get this population in the regular banking system. Did you suggest that, or did I hear—

Ms. GARDINEER. No. Actually what I said is that I think the best oversight that we have in the current structure of the statutes is the CFPB's ability to issue nationwide standards that would apply to non-banks as well as banking entities to address the credit needs.

Mr. CARNEY. Thank you. My time is up. Thanks for coming today and sharing your expertise with us.

Chairwoman CAPITO. Thank you.

Mr. Grimm for 5 minutes.

Mr. GRIMM. Thank you, Madam Chairwoman.

Mr. Munn, you just mentioned that you have very robust and strict rules about online lending in Nebraska. I just had a question. How do you enforce those rules? And let me give you a specific example. I am in Nebraska. I log on. I go offshore, and they send me a prepaid card in the mail. How do you enforce that? And they are breaking the rules of Nebraska, let us just say, in many ways. How do you enforce that?

Mr. MUNN. Of course, we would not be licensing that offshore lender. If the consumer complains about it, we would attempt to get to the bottom of the situation that they have put themselves in.

Mr. GRIMM. But in all sincerity, you being in Nebraska, you are not going to do anything about that company in Macau?

Mr. MUNN. We are very limited as to what we can do.

Mr. GRIMM. Okay. So, again, I just want to emphasize, I think it is a little bit misleading to discuss all of the rules and regulations that you have for the Internet when we all know that these offshore companies is what we are really trying to avoid in the first place. You can't really do anything whatsoever to stop them from doing these loans on the Internet, because unless you plan on monitoring people on the Internet, which we know you certainly are not going to do, you wouldn't even know about it until after the fact, until after the damage is done.

So isn't there something to be said about limiting or at least trying to attack the problem of all of this offshore lending that is going on and get something that is regulated and that we can maybe do a better job of?

Mr. MUNN. As a State regulator, I don't think we can begin to try and regulate foreign companies.

Mr. GRIMM. Exactly.

Ms. Gardineer, you mentioned before an analogy with the real estate market. First of all—and also safety and soundness, and I think it all goes together. Are these institutions, these lenders, are they depositories? Because I thought they were nondepositories.

Ms. GARDINEER. The entities that the bill would ask the OCC to charter?

Mr. GRIMM. Yes.

Ms. GARDINEER. That is correct. But they could be owned by depositories.

Mr. GRIMM. Okay. But for the most part, they are not depositories?

Ms. GARDINEER. They are not depositories.

Mr. GRIMM. So if they are not depositories, where is that safety and soundness issue? Because I have to be honest with you, I don't see it either. Normally in this committee, safety and soundness goes to the integrity of the overall banking institution. We are talking about having taxpayers on the hook. If one of these small payday lenders makes loans they shouldn't make, they go out of business. But it certainly isn't systemic, or it is not going to affect the taxpayers, will it? Can you foresee a situation where it is affecting the taxpayers if a payday lender or one of these small lenders goes out of business?

Ms. GARDINEER. The form of ownership can change under the bill. So even though these would be chartered as nondepositories, I think the bill actually would permit depository institutions, bank holding companies, savings and loan holding companies to own these types of companies. And at that point, I think that you do have the nexus between the depository institutions, the holding company structure that could create a safety and soundness issue.

Mr. GRIMM. Hold on. But under that bill, the OCC can decide whether that happens or not, correct?

Ms. GARDINEER. In the framework of the bill.

Mr. GRIMM. So the OCC, based on this framework, could prevent that.

Okay. Back to the real estate market. Is that really a fair analogy? In this scenario, we have a lender that is lending money pretty much on the hook themselves. Are they then selling that, packaging it and selling it, to the Federal Government?

Ms. GARDINEER. I think—

Mr. GRIMM. The risk? Are they or are they not selling the risk to the Federal Government?

Ms. GARDINEER. I am sorry, Congressman, I don't think I follow your question.

Mr. GRIMM. The risk of that loan, is it being packaged and sold to the Federal Government? These lenders, are they going to package and sell it to the Federal Government?

Ms. GARDINEER. No, I don't know that—actually I can't say, because the products and services would have to be approved by the OCC. So the construct of how those services would be offered—

Mr. GRIMM. Okay. I can assure you that they are not being packaged and sold like—that is silliness. Okay? This is a serious proceeding. The subprime loans were sold to Fannie Mae and Freddie Mac, sold to the government, which put taxpayers at massive risk. The banks were knee deep in this stuff, and it was a systemic problem that hurt our overall economy. And real estate in my State is 25 percent of our State economy. This amount of lending isn't even in that regime, and I just think that analogy is simply absurd.

Ms. GARDINEER. Actually, I think the analogy has some merit, because what we are talking about with regard to all aspects of lending are the disclosures that consumers need in order to make informed choices. And what we saw with the subprime market was the expansion of that product to a broader demographic without the disclosures with regard to how the products were offered and the mechanics of that type of loan.

Mr. GRIMM. I know my time is up, but the problem wasn't with disclosures; it was that the Federal Government was buying it all, so no one cared.

Thank you. I yield back.

Chairwoman CAPITO. Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman, and I especially thank you for allowing me to continue to interlope, given that I am not a part of the committee. And I thank the witnesses for appearing. Let me start with Mr. Munn.

Mr. Munn, you were asked a question earlier, and you didn't get a chance to respond in terms of your knowledge of the bill. Would you like to respond before I go to some other areas in terms of your knowledge of the bill?

Mr. MUNN. Thank you.

The point has been made more than once that in the bill as proposed, the lenders would not make a loan of less than 30 days. And my question was, well, I don't see any prepayment penalty called for, so somebody may go to one of these lenders. They only need the money for 7 days, but they are made a 30-day loan with the 30-day fee, and pay it off in 7 days. From an APR standpoint, that increases the APR substantially.

Mr. GREEN. And does that, in your mind, constitute a penalty?

Mr. MUNN. A penalty? It would quadruple the annual percentage rate, and, of course, that is what we are used to. The terms we think of in terms on payday lending is the annual percentage rate so that the consumer can shop from one payday lender to the next.

Mr. GREEN. How many hats are you wearing today? I know what your current title is, but in your testimony you seem to indicate that you are representing some other entities.

Mr. MUNN. I represent the State of Nebraska as the director of its Department of Banking and Finance and serve at the pleasure of the Governor, but then I also appear on behalf of the Conference of State Bank Supervisors in which I am actively involved. I also represent all State financial regulators on the Federal Financial Institutions Examination Council, an entity created by Congress in 1979.

Mr. GREEN. When you are speaking, how do I know when you are representing Nebraska or the other entities? Where is the line of demarcation? Is there a bright line for me?

Mr. MUNN. There probably isn't a bright line. I would think today, probably 60 to 70 percent of my testimony was Nebraska-based.

Mr. GREEN. Let us ask a few questions now about your opinion as it relates to the other entities. Has there been a request by these other entities to regulate in this area? Are you aware of a request that is being made by entities, Governors, for example? I know you are not representing Governors, but are Governors asking for this kind of regulation?

Mr. MUNN. No, I am not. It is the powers granted to the Consumer Financial Protection Bureau by Congress is where the new source of regulation is coming from.

Mr. GREEN. And as it relates to preemption, your State would oppose preemption, I take it?

Mr. MUNN. Yes, we would.

Mr. GREEN. Do you have any sense of how the other States would weigh in on the question of preemption?

Mr. MUNN. I think the States would come down consistently on my side, especially when 16 of the States either don't allow payday lending or have set a usury rate such that it is not economically feasible for the lenders.

Mr. GREEN. And for the benefit of people who may not follow these issues closely, but may be following this hearing today, explain what preemption means so that people will understand.

Mr. MUNN. Okay. Preemption means that the Federal law in a certain situation is given supremacy over the laws of the State, and the State has nothing to say about how—whatever the object of the preemption was, the State regulation is cast aside.

Mr. GREEN. Generally speaking, who usually favors preemption? I hate to get you into a political quagmire, but who usually favors preemption?

Mr. MUNN. Generally, companies that want to do business in more than one State. However, I am more familiar on the banking side. We have banks we supervise which operate in several States very effectively because State regulators work together from a home State-host State basis.

Mr. GREEN. Let us talk about persons who are States' rights advocates. Do they usually favor preemption, persons who are States' rights advocates?

Mr. MUNN. Not to my knowledge.

Mr. GREEN. Let us talk about what your knowledge base reveals. What does it reveal as it relates to preemption? Persons who are States' rights advocates, would they normally favor this kind of thing?

Mr. MUNN. The subject of the bill?

Mr. GREEN. No, not the subject, but having the Federal Government decide what States should do, or taking the authority from States.

Mr. MUNN. No, I would think they would naturally be opposed to that.

Mr. GREEN. And my final question will be this: If this is passed, will Nebraska have the opportunity to continue to regulate, in your opinion, payday lenders, as opposed to what is being now established? There is a new name being given to institutions that will engage in this conduct. Are you of the opinion that you will be able to continue to regulate payday lenders and other lenders?

Mr. MUNN. I don't believe that we would. I think that the current payday licensees that we have would probably either be forced out of business or would seek a Federal charter.

Mr. GREEN. So you would be preempted.

Thank you, Madam Chairwoman.

Chairwoman CAPITO. Thank you.

That concludes our first panel. I thank both of our witnesses. We will assemble the second panel and begin in a few minutes.

I would also like to ask unanimous consent to insert a statement into the record from Americans for Financial Reform. Without objection, it is so ordered.

Chairwoman CAPITO. We will have a quick changeover.

[brief recess].

Chairwoman CAPITO. All right. We will reconvene, if I can get order in the room.

I want to recognize each of our witnesses. First of all, I want to thank them for coming, and I want to recognize each one for 5 minutes for the purpose of making a statement.

Our first witness is Ms. Mary Jackson, who was introduced by her good friend Pete Sessions, a Member of Congress. She is the senior vice president, corporate affairs, of Cash America International, Incorporated. Welcome.

I would remind the witnesses that you are really going to need to pull the microphones close, and make sure they are on so, that we can properly hear your statements. Thank you.

STATEMENT OF MARY JACKSON, SENIOR VICE PRESIDENT, CORPORATE AFFAIRS, CASH AMERICA INTERNATIONAL

Ms. JACKSON. Thank you, Chairwoman Capito, and members of the subcommittee.

I am here to advocate today for consumers. The National Bureau of Economic Research released their study citing that about half of all Americans couldn't come up with $2,000 in 30 days to meet an emergency. I am sure this is something you are already keenly aware of because the study is referring to your constituents.

I have been an employee of Cash America for over 20 years and have watched our businesses grow as community banks have left the neighborhoods, and I have seen the improvement in the non-bank lending space, and it is exciting to see the progress of products and better customer service that has evolved. But as with any business, there is still room for improvement.

We have witnessed the explosion of Internet lending. We believe the current State laws do not adequately protect consumers, forcing them to opt for loans that do not have high-quality standards or enough consumer protections. But foremost, we listen to our customers who have consistently told us they need more choices.

Cash America is an innovative, 28-year-old financial services company with over 7,000 employees. We operate with 4,100 licenses in 31 States and adhere to 12 Federal lending laws, most notably anti-money laundering, truth in lending, and fair credit reporting. We are a customer service company that hears from our customers—such as Regina in Atlanta—who say more options would be a great idea that would help a lot of families in need.

Consumer behavior is changing rapidly with advances in technology, and according to research, global Internet usage increased 75 percent in the last 5 years and is expected to increase another 40 percent in the next 3 years. Research also shows that 59 percent of the U.S. population banked online in 2010. At Cash America our online lending subsidiary, E-Nova International, conducted about 4 million transactions last year and extended around $2 billion in credit.

A Federal non-bank charter, as outlined in H.R. 6139, would take the industry from struggling with 50 different State models to one overriding solution that meets consumer needs. The State-by-State model is utterly ineffective. We can't offer the same choices to consumers with identical financial needs because they are separated by nothing more than a State line. And in most States, the spectrums of offerings is limited by outdated laws that restrict the number of choices available to consumers.

For instance, in California, if someone needs $1,000, they would have to borrow from 4 different payday lenders at $250 each, or qualify for a loan over $2,500 and pay back $1,500 immediately to get the $1,000 they seek.

Also, States like Nebraska have not modernized and will not license Internet lenders. Currently, lenders are required to develop new products dependent on antiquated State consumer credit statutes that were not drafted for current technologies or online interstate consumer lending. And if we were to apply the same State-regulated scenario to credit cards, most Americans living in States like New York and Texas would not be able to carry a credit card due to their State laws.

More than 60 million Americans are in need of non-bank financial products. We envision under the charter working alongside banks, credit unions, nondepository lenders, and others who desire to provide credit options for consumers. Even the CFPB has stated that achieving solutions at scale requires that we actively engage in all sectors.

What innovative production do consumers need and want? Consumers need amounts from $500 to $5,000, with longer terms of 3 months to 2 years, and we are committed to providing these under the charter. Moreover, we care about our customers, and despite recent articles to the contrary, we have no desire to circumvent the CFPB's efforts, and the bill specifically states so.

We have Federal banks and State banks. We have Federal credit unions and State credit unions. We need a Federal non-bank charter and State licensed lenders. The debate over consumer lending continues to be volatile, but most ironically, everyone here wants the same thing: more quality financial choices in the marketplace for hard-working Americans.

Cash America was built on the foundation of serving people that traditional financial institutions have overlooked. We encourage you to support H.R. 6139. Let's modernize our thinking and our laws so we can truly meet the needs of those who have the fewest options.

Thank you, Chairwoman Capito, Ranking Member Maloney, and subcommittee members. It has been a pleasure to share our thoughts with you today. Thank you.

[The prepared statement of Ms. Jackson can be found on page 125 of the appendix.]

Chairwoman CAPITO. Thank you.

Our next witness is Ms. Frances C. Bishop, the owner of Dollar Pawn, Incorporated, on behalf of the National Pawnbrokers Association. Welcome.

STATEMENT OF FRANCES C. BISHOP, OWNER, DOLLAR PAWN, INC., ON BEHALF OF THE NATIONAL PAWNBROKERS ASSOCIATION AND THE ALABAMA PAWNBROKERS ASSOCIATION

Ms. BISHOP. Thank you.

Good morning, Chairwoman Capito, Ranking Member Maloney, and members of the subcommittee. My name is Fran Bishop, and my husband and I have owned and operated Dollar Pawn in Haleyville, Alabama, for 24 years. I have also been an active member of the National Pawnbrokers Association and the Alabama Pawnbrokers Association, having served as president of both organizations as well as chairing their government relations committees.

As the old "What's My Line" game show began with enter and sign in, I am a wife, a mother, a grandmother, a pawnbroker, and a small business owner. Today, I am here to express the concerns of the National Pawnbrokers Association, which is comprised of independent, family-owned pawn stores all across the country.

By point of clarification, none of the large publicly traded pawn companies are members of our association. Our small business members serve over 30 million consumers' short-term cash needs through face-to-face, nonrecourse pawn transactions. The NPA only represents pawnbrokers and no other nondepository industry.

With the greatest respect to the Members sponsoring H.R. 1909 and H.R. 6139, these bills provide or even expand access for providers, but are not likely to afford more access for consumers. Specifically, this bill is anti-small family-owned business and favors large megaproviders. It is Wall Street versus Main Street once again. Its anticompetitive nature is likely to result in fewer providers rather than more. Fewer providers commonly results in higher prices.

These bills preempt States' regulatory, supervisory, licensing or examination powers already in place by State legislatures, or in some cases, a vote of the people. Consumers' credit needs are being met in our members' communities by State-licensed, nondepository providers as well as local community banks and credit unions. The sky is not falling.

Another Federal bureaucracy to charter Federal nondepository providers is unnecessary. The permanently broad powers a Federal charter holder would receive will at best be scantly regulated by only one agency, the OCC, which already has its plate full supervising, examining, and enforcing laws regarding national banks and federally-chartered thrifts.

A Federal charter holder would be able to bypass all of the State requirements I mentioned previously, as well as TILA, annual percentage rate disclosure, CFPB examination, supervision, enforcement, et cetera; but our members, small businesses, will remain subject to all of the above and more that time does not permit me to cover here.

Pawnbrokers are the Nation's safety net lenders, regulated by the States for decades. Regulators rarely receive complaints about pawn transactions. We serve our communities and our customers well. I urge you to not create an unlevel playing field for our small businesses by giving megaproviders access to expanded and largely unregulated markets under the guise of access to consumers and small business.

Thank you, Madam Chairwoman, and members of the subcommittee.

[The prepared statement of Ms. Bishop can be found on page 65 of the appendix.]

Chairwoman CAPITO. Thank you.

Our next witness is Mr. John Berlau, senior fellow, finance and access to capital, the Competitive Enterprise Institute. Welcome.

STATEMENT OF JOHN BERLAU, SENIOR FELLOW, FINANCE AND ACCESS TO CAPITAL, THE COMPETITIVE ENTERPRISE INSTITUTE (CEI)

Mr. BERLAU. Thank you, Madam Chairwoman, Ranking Member Maloney, and honorable members of the subcommittee. Thank you for this opportunity to present testimony on behalf of my organization, the Competitive Enterprise Institute.

This story also shines light on one of the most untold stories on the workings of Congress, and that story is that sometimes Members of Congress actually are working together and finding common ground on legislation, legislation that would pare down excessive regulations that block stable and transparent sources of credit and capital for both consumers and entrepreneurs.

My organization, the Competitive Enterprise Institute, is a Washington-based free-market think tank that, since its founding in 1984, has studied the effects of all types of regulations on job growth and economic well-being. My title at CEI is senior fellow for finance and access to capital, and to increase access to credit and capital, CEI proposes a public policy strategy that can best be described with a phrase sometimes associated with energy exploration, "all of the above."

Banks, credit unions, and non-bank lenders all have a role to play in expanding credit for responsible consumers and entrepreneurs, and all should be able to operate free of excessive regulation. That is why we supported the regulatory relief in the recently enacted and bipartisan Jumpstart Our Business Startups Act for community banks to allow them to more easily raise capital and seek investors, it is why we support bipartisan legislation allowing credit unions to make more business loans, and it is why we support the subject of this hearing, H.R. 6139, giving non-bank lenders the same opportunity to offer financial services through a national charter similar to the system that banks have had for 150 years.

Now, my organization, the Competitive Enterprise Institute, has actually long supported optional Federal chartering as part of our goal of what we call competitive federalism. As our Chairman Michael Greve has written, real federalism aims to provide citizens with choices among different sovereigns and regulatory regimes. And all this bill would basically do is for the unsubsidized non-bank lenders who aren't taking deposit insurance, aren't a risk to the taxpayers, to create a similar system of optional Federal chartering that has existed for banks for almost 150 years at the very same agency, the Office of the Comptroller of the Currency.

It was in the Civil War that the National Bank Act was enacted, and many banks have chosen to stay with State regulators. But competition from federally-chartered banks has lowered the cost of credit and capital for everyone, and I think a similar reduction in the cost of credit and increase in access to credit could occur under a system of optional Federal chartering for non-bank lenders to work to the benefit of both consumers and entrepreneurs.

I want to point out that research on entrepreneurship from the Kauffman Foundation and other respected sources, as well as some prominent specific examples, shows there is much less of a gulf between personal credit and business credit than some policymakers may believe. Sergey Brin, for instance, started what is now Google, Incorporated, as a college student, using a personal credit card. Spike Lee financed some of his first films by maxing out his credit cards. And the Kauffman Foundation has found that nearly half of entrepreneurs use personal credit cards, and there is also evidence that entrepreneurs utilize non-bank lenders more typically associated with consumer borrowing. Former Federal Reserve Senior Economist Thomas Durkin has written that—and has found that small independent businesses, seasonal businesses such as landscaping, plumbing, and handyman services, may use auto title loans as a source of short-term working capital.

H.R. 6139 would broaden these options and lift barriers to loan innovations such as short-term loans, and would have longer-duration installment loans specifically suited to small entrepreneurs and to many consumers.

Thank you so much again for inviting me to testify, and I look forward to answering your questions.

[The prepared statement of Mr. Berlau can be found on page 58 of the appendix.]

Chairwoman CAPITO. Thank you.

Mr. Kenneth W. Edwards, vice president, Federal affairs, the Center for Responsible Lending. Welcome.

STATEMENT OF KENNETH W. EDWARDS, VICE PRESIDENT, FEDERAL AFFAIRS, THE CENTER FOR RESPONSIBLE LENDING (CRL)

Mr. EDWARDS. Thank you. Chairwoman Capito, Ranking Member Maloney, and members of the subcommittee, thank you for inviting me to testify on better understanding of the regulatory regime for nondepository creditors and my views on H.R. 6139.

I currently serve as vice president of Federal affairs at the Center for Responsible Lending, a nonprofit, nonpartisan research policy organization dedicated to promoting and protecting homeownership and family wealth by eliminating abusive financial products.

In my testimony today, I would like to emphasize the following three points: Point number one, H.R. 6139 would circumvent the CFPB's carefully contemplated supervisory, enforcement, and rulemaking authority over certain nondepository financial institutions. The CFPB is the primary Federal regulator with explicit authority over large nondepository institutions and certain nondepository entities, including payday lenders. Title X of Dodd-Frank tasks the Bureau with consumer protection through rulewriting supervision and enforcement to ensure that markets allow borrowers to gain access to and choice among financial products and services that are fair, transparent, and competitive.

In just 1 year, the CFPB has begun to create sensible rules of the road for financial markets through a balanced and level regulatory playing field for market participants. Without such evenhandedness, consumers would be exposed to a financial marketplace rife with the very kinds of abuses that led to the financial crisis. The CFPB supervisory purview over nondepository entities is prudently designed to improve the quality of financial services in this sector and enforce Federal consumer financial law.

Point number two, H.R. 6139 would expressly allow nondepositories to evade 230 years' worth of State consumer protection laws, licensing, and supervision that are essential to protecting vulnerable consumers from abusive financial practices.

Under H.R. 6139, nondepository charter holders would be able to offer financial product terms that some States have either expressly prohibited or heavily regulated; for instance, high-cost payday loans. Marketed as short-term relief for a cash crunch, payday loans typically carry annual interest rates of around 400 percent and create long-term debt traps for working people. The loan structures ensure that the vast majority of borrowers cannot pay off the loans when due without leaving large gaps in their budgets. As a result, borrowers are forced to take out new loans after paying the first one back.

States are the traditional regulator for most small-loan products, including payday loans. In fact, State limitations on interest rates have existed for over 200 years. However, since the mid-1990s, payday lenders affirmatively sought and were often granted special authority to charge over 300 percent APR on their loans. Since 2005, a countertrend developed, and no new State agency has granted payday lenders or other short-term lenders their needed exemption from traditional small-loan laws and other regulations.

Despite the harmful impacts of payday lending and the States' efforts to rein in the financial abuses associated with this form of small-dollar credit, H.R. 6139 would permit credit companies to circumvent State laws and would prohibit the Federal financial consumer watchdog, the CFPB, from acting to protect borrowers from harmful products.

Point number three, H.R. 6139 would roll back important Federal credit protections for consumers. Since 1969, the Truth in Lending Act has required creditors to disclose finance charges and APRs before consumers sign a loan as a baseline cost-credit comparison measure.

Payday loans, for instance, are also subject to TILA's credit disclosure requirement, and as a result, consumers are afforded an accurate way to gauge the true costs of lending across products. H.R. 6139 upsets this long-standing Federal consumer protection by exempting credit companies from this APR disclosure. This would result, of course, in a significant marketwide rollback of Federal credit law.

In conclusion, we believe that this legislation would directly harm vulnerable borrowers, particularly the underserved, and should be opposed.

Thank you again for the opportunity to testify, and I look forward to answering any of your questions.

[The prepared statement of Mr. Edwards can be found on page 74 of the appendix.]

Chairwoman CAPITO. Thank you very much.

And our final witness is Mr. G. Michael Flores, chief executive officer, Bretton Woods, Inc. Welcome.

STATEMENT OF G. MICHAEL FLORES, CHIEF EXECUTIVE OFFICER, BRETTON WOODS, INC.

Mr. FLORES. Good afternoon, and thank you very much, Chairwoman Capito, Ranking Member Maloney, and members of the subcommittee for the opportunity to testify today on a topic of growing concern to many in this room, and one that I have followed for several years. My firm provides management advisory and research services to banks, credit unions and alternative financial services providers. With more than 30 years' experience, I have witnessed the evolution of the financial services marketplace. In

2008, this country woke to the worst economic crisis since the Great Depression. I belive we have now reached a decision point on how to deal with the credit needs of the 60-plus million Americans marginalized by the traditional banking model.

Based on my most recent study, "Serving Consumers' Needs for Loans in the 21st Century," I would argue that consumers, notably those in the low- to moderate-income range, would stand to benefit from a new financial paradigm that recognizes the potential of alternative financial services providers. Many, but certainly not all of these consumers are part of the 60 million Americans who are either unbanked or underbanked. In addition, there is a growing class of moderate to middle-income consumers who have chosen to leave traditional banking because of increased fees or because they need an unsecure personal loan, a product no longer offered by most traditional banks.

Access to credit has been an ongoing problem that has worsened with the times. Difficulties of underbanked and unbanked consumers to obtain smaller dollar loans has been the subject of increasing debate, including in a number of Congressional hearings. But it is not just about low- to moderate-income consumers, because the fact is that bank customers, many of what you and I consider healthy bank accounts, are coming up short as well.

Since the 1980s, banks have used credit card lines, home equity lines, and overdrafts to provide consumer credit. These are now less viable due to the poor economy and increased regulations. Overall, the community banks' focus on consumer lending has declined significantly since 1985 according to the FDIC. And during that period, unsecured installment loans have all but disappeared from bank product suites, due to profitability, risk, and regulatory concerns.

Today, loans under $5,000 are all but non-existent, and with good reason. Given the legacy cost structure and slowed option of new technology, many banks aren't capable of properly making loans under $5,000. New Federal regulations and increased compliance costs are causing banks to examine their customer base. As my study details, the traditional banking business model relies on scale to be profitable. According to JPMorgan Chase, about 70 percent of customers with less than $100,000 in deposits and investments will be unprofitable.

Given the level of investment required to succeed in the 21st Century, it is only rational that banks target their most profitable customer segments. The potential fallout is significant and will likely add to a further retraction in the credit market. Limiting consumer and small business credit also has a detrimental effect on local economies.

Consumer financial services are clearly at a crossroads and I believe that a new financial regulatory structure is warranted. The answer points to the capabilities of alterative financial services providers; many have invested in more efficient and cost-effective technology, but costs associated with regulatory variations in 50 States inhibit their ability to offer a range of standard products, particularly in the $750 to $5,000 range. Differing State regulations deny alternative financial services providers the ability to achieve scale, reduce cost, and thereby pass on the savings to the consumer.

Studies of the impacted restricted regulations and other industries, most particularly the lack of Federal preemption, repeatedly shows that these very State regulations limit options and increase costs to consumers. There is room for both Federal- and State-approved lenders, as it is a model for State and national chartered banks.

I would further argue that the lack of standard product nationally, in and of itself, creates disparate impact on consumers. That is, nothing more than a State line can cause consumers to meet their specific credit needs with less than optimal and more expensive alternatives. I believe this bill will move us from the status quo, and we need to move from the status quo, we have been talking about it, identifying the problem, but we have yet to act upon any solutions. I think this bill will help bring relief to millions of American consumers. Thank you for your time, and I would be happy to answer any questions. I would like to submit my study for the record.

[The prepared statement of Mr. Flores can be found on page 80 of the appendix.]

Chairwoman CAPITO. Thank you all very much. I would like to begin the questioning. Ms. Jackson, just a point of clarification here on this bill. You mentioned several States, I believe mine is one of them that does not do, or at least it does not permit payday lending. It was a Federal floor here that such is proposed with a bill, would that statute be preempted by this? So it could go forward in all 50 States?

Ms. JACKSON. The premise of the bill is basically to allow longer-term installment type loans in the marketplace. So States like West Virginia that have a usury cap where citizens are going online and getting either payday loans or a form of installment loans, yes, we would, as a federally-chartered enterprise, be able to compete with the offshore lenders to deliver products that do have consumer protections, that do have oversight and give consumers a choice.

Chairwoman CAPITO. So, that is a yes. Then, would the State legislature, in your opinion, be able to come in and override that federally-chartered provision? I would suppose, no.

Ms. JACKSON. I believe with the way credit cards are treated in this country and other banking products, that we could be working with State regulators on some of those solutions. There are some exceptions. The Credit Card Act and the way credit cards are processed in certain States, but it doesn't prohibit the basic tenets of a credit card to be available to consumers in those States.

Mr. BERLAU. Congressman, if I may, it would only—the entities would only get the exemption if they applied and met the standards of the Office of Comptroller of the Currency prescribed under the bill, similar to the system of State and national banks where a bank can choose to be regulated by the Federal or by the State government.

Chairwoman CAPITO. Right, so the OCC would—that determination would then allow people to override the prerogative of the State legislature.

Mr. BERLAU. But if it chooses not to, or the OCC decides it does not meet their standards, then yes, all the West Virginia rules would still apply.

Chairwoman CAPITO. Ms. Bishop, you mentioned and launched concerns in your testimony that this would disproportionately favor large entities, and you mention that yours was not one of those. So in your State, what is the situation now? Who are you competing against? Are your customers the same? And has your customer base changed over the last 3 or 4 years? Who are you competing with as your customers changed, and who are you competing against?

Ms. BISHOP. Speaking to the pawn industry, which is what my business is and the association I represent, I continue to compete with other pawnbrokers down the street, or in the next town or what have you. We also—payday lending is allowed in Alabama, it is regulated also by the same State banking department which also regulates the pawnbrokers, small loans, mortgage brokers and so forth. So that—

Chairwoman CAPITO. Do you feel like—not to interrupt, but I have a little—do you feel like you are serving the same customers?

Ms. BISHOP. No.

Chairwoman CAPITO. And then on the other one, has your customer base changed over the last 4 years with the downturn of the economy, is it broader or has it basically stayed steady?

Ms. BISHOP. It has broadened somewhat, not only just with the downturn in the economy, but other economic situations with, for instance, the price of gold, which is higher than it has been in probably who can remember when. That has brought an additional segment of customers in who can use that asset as collateral for their tangible personal property loan.

Chairwoman CAPITO. Mr. Flores, a consumer who does not have enough money in their checking account, or even if they don't have a checking account, they have an option, or in their checking account, they could bounce a check, use overdraft protection, get a payday loan, pay the bill late or borrow from another institution. Why would consumers pick one of these—I am going to postulate the reason they pick one over the other is it is the one they can get and they can get to, and sort of get them over the hump until they can solve whatever problem, the electric bill or whatever. Do you have an opinion on which one of these, because they all come at a relatively high price, or gaining momentum or losing momentum or why a consumer would choose one of these over another?

Mr. FLORES. There is a continuum of need, and I break it down in my report, unanticipated needs for short-term dollar amounts, and overdraft coverage, which is much less expensive than bouncing a check with associated fees and late charges, et cetera. A payday loan is less expensive than an overdraft, if you look at what the average overdraft amount is and overdraft fee, the installment loan meets that longer-term need for a higher ticket item, that $2,000 to $3,000 that we are talking about that really is not available out there and hasn't been since the old finance companies of the 1970s or 1980s.

Chairwoman CAPITO. I bought my refrigerator with one of those, 30 years ago.

Mr. FLORES. So I think we need to give the consumer a lot more credit than we do. Their need to manage their finances down to the last penny, they know how to do that and they look for the best options available to them. So the more options we can give them, ultimately the less cost they will incur to meet these needs.

Chairwoman CAPITO. Thank you. Mrs. Maloney?

Mrs. MALONEY. Thank you. I think we all agree that there is a need for small loans. And the supporters of the bill argue that they are not there, so therefore they are going on the Internet, they are going offshore, they are getting these loans that are more predatory with higher interest rates. And I would like to ask the panelists if they have any research, or Mr. Flores, if your report touched on this area, or Mr. Edwards, or Mr. Berlau, and your comments, Ms. Bishop, if you could tell me how widespread pawnshops are, are they in every single community, all across rural, every State, whatever? But my primary question right now is the question on the statements by some earlier that people are going on the Internet to get loans in order to get this refrigerator, or get that car fixed, or whatever it might be. And Ms. Jackson, if any of you or all of you would comment on whether that is widespread or whatever.

I am going to start with Mr. Flores and just go down the panel. And if you would like to comment on what your research is or your understanding of the use of the Internet to address these needs?

Mr. FLORES. I did a research report on overdrafts a few years ago comparing other short-term alternatives. The demand was upwards of $100 billion a year for this money, and the demand is not going away even though some States had legislated products away from it.

Mrs. MALONEY. Are they going on the Internet to get this loan?

Mr. FLORES. Absolutely. They are looking at whatever option is available, and the Internet is a growing option. It is very convenient, they don't have to go search for a storefront. And I think a key point to remember is that this market is growing, that the Washington Credit Union League estimates a 2.8 million a year increase in their unbanked and underbanked communities.

Chairwoman CAPITO. Thank you. Mr. Edwards?

Mr. EDWARDS. Thank you, Chairwoman Capito. If I could just respond to the previous comment of Mr. Flores, payday loans and overdraft fees are not interchangeable. The first payday loan may be an initial choice the consumer makes. But the structure and unaffordability of that first loan results in a financial debt trap for subsequent payday loans. With respect to an overdraft fee, the research indicates that it is unintentional. And the typical overdraft fee is about $34 for, let's say, maybe, a $17 overdraft. We are talking about servicing the unbanked and underbanked. And we have research that shows that a leading cause of people to become unbanked or lose their bank accounts is because of the excessive cost associated with overdraft fees. So I would disagree that payday loans and overdraft loans are somehow interchangeable and alternate forms of small-dollar credit.

With respect to research, the Pew Foundation recently released a report that sampled about 100 would-be borrowers and asked them, it was 100 would-be borrowers that are located in States that either heavily regulate payday loans, or completely outlaw payday loans. And out of that 100 borrowers, 95 of those did not to go online lenders and only 5 of those did. So what that shows is that there is an actual low percentage of a low number of borrowers who are actually seeking out online payday loans in instances where the storefront payday lenders are actually outlawed.

Mrs. MALONEY. Thank you. Mr. Berlau?

Mr. BERLAU. Yes, I think that is such a good question. What are the alternatives if you restrict credit or don't allow new forms of credit, so thank you for asking that, Congresswoman Maloney. And I am going to dispute my fellow witness, Mr. Edwards. I think the evidence does show that overdraft fees are and late fees and bounced checks are frequently a substitute for payday loans, unfortunately. I reference in my written testimony the Federal Reserve of Kansas City's Senior Economist Kelly Edmiston and others who have written about that, in States with highly restrictive laws as far as credit and payday loans.

Mrs. MALONEY. Thank you my time is almost up. Ms. Bishop, or Ms. Jackson?

Ms. BISHOP. My research is behind my counter every day, serving the needs of my customers and consumers. But I have a question, and that is, whatever type of online loan we are talking about here, I don't care, payday, small, whatever, if there is a national Federal charter that is applied for by companies that are legitimate, and that are trying to do the right thing. The ones in Macau are not going to apply for that. And the consumer is still not going to know who they are dealing with. When you go to the Internet, you all know that this pops up here, that pops up there, and people have the tendency to click on them. Sometimes, it clicks on itself for you. People who are not legitimate are not going to get that way because of a Federal charter.

Ms. JACKSON. Mrs. Maloney, if I may, we are the largest online lender here domestically, and we offer State-by-State options for consumers. We are attempting to do better. We would like to offer longer-term loans. We have scoured all 50 States to see where that is feasible, and there are about 15 States where we can offer a longer-term loan. Right now, you asked about the size of the marketplace, 61 percent of online small-dollar loans are done by nondomestic players, and that is only going to continue to grow.

So in order to protect consumers, to let them know that they are dealing with an OCC-regulated Internet company where there is a place to call if they have concerns with the CFPB, or the OCC, that is what we are trying to accomplish here today.

Chairwoman CAPITO. Thank you. Mr. Renacci?

Mr. RENACCI. Thank you, Madam Chairwoman. And I want to thank the witnesses. Just a couple of comments I heard while you were talking. Mr. Flores, you said we need to give the consumer credit for making these decisions that they make as far as short-term loans. Mr. Edwards, you said payday loans are a choice consumers make. It is interesting because I took the time to actually go talk to those individuals who are going to these payday loans and using this service and using this product. These are everyday, hard-working Americans who are just short on cash, not on a regular basis, sometimes just on an emergency basis, who really appreciate the service, they want this service, they really don't want the government meddling in it much more. They are happy with the service that they have right now.

I was interested because if you spend a half hour just talking to the consumers as you said who make these choices, and as Mr. Flores said, give them the credit to make those choices, I am concerned in your conclusion, you said indeed this legislation—and this is to Mr. Edwards—indeed this legislation offers nothing beneficial for consumers. On the contrary, it would lead to direct consumer harm. Can you explain that?

Mr. EDWARDS. Sure. And let me just make sure I clarify with respect to my previous comments regarding the choice. That is within the context of looking at payday loans with respect to overdraft fees. Overdraft fees research has shown are unintentional, and I want to make sure we are clear with respect to the distinction I was drawing there.

In terms of the harm, if you are talking about consumers who are in financially fragile households, who are often living from paycheck to paycheck, the purpose and intent of this legislation draws that demographic. These are people who can ill-afford to be trapped in long-term debt.

If they are taking out financial services, and research has shown that they are doing it nowadays to cover actual everyday living expenses like rent or utilities, if they are doing that and they are standing in debt about 5 or 6 months per year, taking out maybe 8 loans if we are just talking about payday loans, for instance, that is problematic. It doesn't do the consumer any good because they are constantly either flipping that loan, paying off the loan and taking out a new one. That puts them in a cycle of long-term debt, and that is a huge problem. And I don't think that would be do a consumer any good. To be quite frank, it is a concern, you can even argue, of national interest.

Mr. RENACCI. That is interesting, Mr. Edwards, because you are talking for the same consumer that I talked with who said that they appreciated that loan, and that they were very happy to have it. So sometimes—when I get back in the district, they talk about how Washington is disconnected. Sometimes, we just have to go and listen to the people using the services.

Mr. EDWARDS. But Representative, if could I interrupt for a second, the consumers that you are talking to and they say they appreciate those loans, I would be curious to know the follow-up question, if they appreciate being charged sometimes in certain instances triple digit APRs if you look at it, and then being associated with the fees that they have and standard debt for quite some time, I think the answer might be a little bit different.

Mr. RENACCI. I will tell you what the answer is, because one of them said to me, would you be willing to give me $100 if I gave you $107 back in a week? And it is an interesting response that you have to think about. Because we talk about this high APR, but we are talking about short-term loans, and how many people are willing. Some of these people do have low credit, so I think when you talk to them you will find out, you will get some interesting answers.

Mr. Berlau, I guess I am a little concerned, and I want to see, do you have any concerns that the CFPB may take steps to even further constrain the offering of short-term, low-dollar loan products?

Mr. BERLAU. Yes. As a matter of fact, I do have concerns about that. We are—I should say that my organization is involved in a constitutional challenge to the CFPB because we think the structure lacks accountability. But as far as this bill goes, and some of the other concerns about it, I think that it makes clear that this doesn't affect for good or ill what the CFPB is planning to do; it is just another alternative to offer these loans, and then the CFPB would have final say.

So yes, I am, but this bill doesn't address that, but it does do very good things as far as creating alternatives, which then the CFPB would be able to have a say on as well.

Mr. RENACCI. Ms. Jackson, do you feel whether it is the CFPB or the States if they further restrict this type of credit, that it will be more difficult for these individuals that I talked with to obtain short-term credit?

Ms. JACKSON. We have seen real evidence that attempts to limit rates, attempts to limit usage, have just exploded the illegal or unlicensed lending market. We saw that with military lending which was mentioned here earlier today. We cannot make loans to the military because the rates are so low. And what happened is military members would go online and get loans from offshore lenders.

So we would like to be able to, again, have safe and sound lending requirements, but you can't do it when the rate gets so low. Also in California, they passed an installment loan law which was great, but there has only been one license application since because the rate was too low. So again, back to my scenario, what do you do if you need $1,000? Residents from California still have to go to payday lenders, or go find a higher level loan or pay back an amount right away. So we put consumers at a disadvantage when we try to protect them.

Mr. RENACCI. Thank you, I yield back.

Chairwoman CAPITO. Mr. Watt?

Mr. WATT. Thank you, Madam Chairwoman. It seems to me that we are having two discussions here, one of which I am not sure why we are having it. I am not sure I understand how subjecting something to Federal regulation is going to increase credit availability; that is one question. Mr. Renacci raised an interesting point about government meddling in their choices. Most of my constituents would rather have the State government meddling in their choices than they would the Federal Government meddling in their choices. And this bill proposes a Federal charter that preempts State law, which makes me raise the same concerns that I raised when we were debating the Rent to Own legislation in this committee.

I just don't understand the rationale for it. And I understand the rationale for it even less now that we have passed Dodd-Frank and have a Consumer Financial Protection Bureau, which is a Federal agency that would regulate these entities. I would have understood it a year ago or 2 years ago, before we had the CFPB.

I don't know that I think the OCC would be any better Federal regulator than the CFPB would be. And I wouldn't want either one of them to preempt State law, especially if that law, that State law had a higher threshold of protection for consumers.

And so I guess I am having trouble understanding the rationale for this bill in general. I raised these questions, obviously I lost, because the bill—the Rent to Own bill passed out of here with almost absolute preemption. This bill, as I understand it, has pretty much absolute Federal preemption, too. And while we would take small lenders, small credit people and give them an optional Federal charter, I just—I don't understand it.

So Ms. Jackson, tell me how you think this is going to increase credit availability to consumers?

Ms. JACKSON. Congressman Watt, it is going to help us keep pace with technology and what is being offered on the Internet.

Mr. WATT. So you think the Consumer Financial Protection Bureau doesn't have the capacity to do that, and the OCC does?

Ms. JACKSON. First, from what I understand, the OCC has licensing authority, that is why the OCC is looked at as the regulator. The CFPB will look at the products to determine the consumer protection measures within those—

Mr. WATT. So my State has a licensing authority, why would I opt for OCC licensing over my State which has traditionally operated in this area, the same point Ms. Bishop has raised here? Why would I want the OCC to be licensing a pawnshop, or a payday lender when my State doesn't even allow payday lending?

Ms. JACKSON. In North Carolina, Congressman Watt, installment lending is not prevalent, so the longer-term loans that most people would want some additional options would be available through the Federal charter. Installment loan—

Mr. WATT. What additional options are you talking about would be available that aren't currently available if we created a Federal charter for—I don't understand that?

Ms. JACKSON. Some States, again, it is not addressed to the usury laws, or the limits do not allow an installment loan. Right now if people would like to have a longer-term loan, they would have to go to the Internet for States that don't provide a licensed lender. So as a national chartered lender, I would be able to offer that, they would look for the union label, or whatever we would want to say that CFPB or OCC regulated entity. If it is not available in their State, they will go to the Internet, they will get what they see.

Mr. WATT. Forgive me for just saying, you have not convinced me of this. Of course, they have been trying to convince me for 3 years on Rent to Own that this is a good idea. I think this is a terrible idea.

Ms. JACKSON. Congressman, we respect your opinion. What is happening, though, is in the marketplace, online, 61 percent of the market is being served by non-domestic lenders.

Chairwoman CAPITO. The gentleman's time has expired. Mr. Luetkemeyer for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman. The previous panel talked about credit history. Ms. Jackson, would you like to address that with regards to people who utilize your service, they establish a credit history by paying their loans off on time or picking up two or three more as a result and eventually move on, or take advantage of a more traditional loan at some point. Can you give me a little credit history analysis how that helps?

Ms. JACKSON. Currently, the short-term lending product is anything less than 30 days. It typically will not include people's credit, because the credit bureaus do not want to take that data. And so we are finding that being a struggle for consumers to try to figure out how to use these products and improve credit.

What we envision with this charter is to allow for those longer-term products, the fact that bureaus we already know that we talked to will accept that data so we can graduate people from the smaller short-term loans, into, again, maybe a midway product where they could get their credit built so then they can deal with a bank.

So we do have to think about how consumers build their credit, and how can they do it with non-bank credit products, because if you don't have credit, you are not going to get a bank loan, so how do you transition consumers, and we are extremely interested in trying to figure that out.

Mr. LUETKEMEYER. As a former bank regulator and someone in the banking industry for 30 years, I have made probably thousands of these small loans, because I come from a little bitty small town, with a small bank. We don't have a pawnbroker in our town; we don't have a payday lender or a small loan lender. We are it. And so, I have dealt with this all my life. And we sat there across the table from a young lady who is stuck in a situation, a single mother, has no way to make her car payments because she doesn't have a car because her husband just left her last night and she is sitting there in front of you. She needs some money to be able to go out and buy a car to be able to get to work, to be able to pay the bills for the baby she has in her arms. How do you solve that problem? You solve it with being able to provide credit. Access to credit for people like that in an emergent situation, this is what we are trying to do today. It is interesting to me to listen to some of the comments. Mr. Edwards, did you read the bill by any chance?

Mr. EDWARDS. I did.

Mr. LUETKEMEYER. Where in there did we circumvent the CFPB?

Mr. EDWARDS. Congressman, as you well know, the CFPB, under Section 1024 of Dodd-Frank is tasked with supervising non-bank entities. And under your bill, having the OCC to supervise, examine, prescribe rules and regulations, and to allow the OCC to approve a product sounds like it is encroaching upon what is written in Dodd-Frank already.

Mr. LUETKEMEYER. If you go back and read 4(k), the CFPB has full regulatory authority over all consumer financial protection under laws that regulate these lenders. There is no change, there is no taking away of this. All we are doing, as Ms. Jackson said, the documentation to issue the charter under the OCC—

Mr. EDWARDS. There is obfuscation in terms of what the CFPB is tasked to do under Dodd-Frank

Mr. LUETKEMEYER. There is no intent to circumvent the law, and the law in this bill specifically spells that out.

Very quickly, my time is about gone here. I have one quick question. Mr. Berlau, you made a comment that this would encourage entrepreneurs. I was curious how you see this encouraging entrepreneurs?

Mr. BERLAU. I do, in two ways. First I see, and if Ms. Bishop has a cost estimate of how much it would cost a small lender to get licensure from the OCC under this bill, I would like to see it and perhaps we can make some improvements. But I scrutinize legislation for cost of small business, and I see nothing where even one pawnshop can't apply for the OCC and become a national lender and offer consumers more choices.

And the other way is, as I mentioned in testimony, in the written testimony, Thomas Durkin of the Federal Reserve has found that actually auto title loans are utilized not only by consumers, but by landscaping businesses, by plumbers, and others who don't have a line of credit with a big bank, and utilize short-term loans in a similar way as consumers do. And of course, a lot of small businesses use credit cards—49 percent, so this would just create a lot more options for non-banks for them.

Mr. LUETKEMEYER. Thank you. And just one following comment. I know, Mr. Edwards, you made the comment a while ago that people who overdraft normally do it unintentionally. I can tell you for over 30 years in the banking business, they are supposed to keep a checkbook and make sure that they don't write more checks than they have money in the bank. It is not unintentional; it is irresponsible.

Mr. EDWARDS. If I could respond to that, Representative. The financial institutions are not supposed to reorder transactions from high to low causing consumers to overdraft, unfortunately. And that is a situation which is costing consumers countless amounts of money, and courts have slapped fines upon some of the larger institutions.

Chairwoman CAPITO. The gentleman's time has expired. Mr. Baca?

Mr. BACA. Thank you very much, Madam Chairwoman. Just to ask one of the same questions I would like to ask Mary Jackson, it was sort of asked, but many of the opponents of the bill would like to simply frame this bill as a payday bill and talk about the problems of specific products. This is done even though the traditional payday loans are prohibited. However, what is lost in the debate is the innovation aspect. Currently, many national banks and large credit unions are provided the ability to operate on a Federal platform that allows them to come up with new products to better serve the customers. And of course, this only works for those who have access to mainstream financial services. Can you talk about the aspects of this bill? And would the Federal standards created by this bill allow for the same increased innovation, specifically to serve consumers who need credit for expenses that cost more than the typical payday loan?

Ms. JACKSON. Yes, Congressman Baca. The Federal charter, again, is designed to drive innovation, it is very difficult for banks and credit unions to do that because they put deposits at risk. So they are going to be more circumspect on who they are going to lend money to; they are going have higher credit score standards. And there has been so much in this space to try to analyze the ability for consumers to repay. We have so much more data out there.

We have a team of 10 people, our analytics team, who looks at the data all the time to determine if we can make that loan and the customer's ability to pay us back. So there has been so many dynamic things that have happened in our sector and we would like to share that in a national way.

We would also like to be able to perform some of these services as a marketer servicer to banks so they can grow their portfolios and grow their banking business. But when you put deposit at risk, and when you put FDIC insurance at risk for these types of loans, it is very difficult. We believe we can do that in partnership or directly with consumers.

Mr. BACA. Thank you. And one of the questions asked, it is very difficult to determine, how many times or how many payday loans have actually been offered, because we know that is 30 days. So there is no way of monitoring how many of those have been done. But right now, isn't it very hard for small-dollar lenders to know how many loans a consumer has taken out unless they actually go to the same place? However, the chartered institutions would be—have a strong Federal oversight, and wouldn't it lead to greater transparency and more complete credit history for consumers?

Ms. JACKSON. Again, folks in the non-bank sector who underwrite unsecured loans are going to use all kinds of data points, companies like Teletrack, where companies do put in how much a person has borrowed with the payday loan. We use that type of service to determine if we are going to be the third lender on the list, is that a good idea? It usually isn't. So with that said, the technology, the ability to offer more choices to consumers is important. I am not sure if I answered your question.

Mr. BACA. Right. But the ability to track and know how many loans the individuals, we would be able to do it. It would be a lot easier than the way the system is under the payday lending because you wouldn't know how many loans that person has had because there isn't that transparency and oversight. Having a charter, we would be able to determine how many loans that person has actually obtained.

Ms. JACKSON. Right. Under a charter, you can offer a longer-term loan, the credit bureaus will take that data and then you will have what you need to make sure that, again, they have the ability to pay, looking at that credit history.

Mr. BACA. Because payday lending can only offer it up to 30 days, what is it? 30 days? Less than 30 days? And the only others that I know of are long-term loans. Do you know anybody else who offers long-term loans to individuals who may have bad credit? Any of you on the panel?

Ms. JACKSON. Oh, I can offer—

Mr. BACA. Loan sharks, right? Loan sharks. We don't want to get a loan shark. We want them to establish credit, deal with their credit scores as well, and this is what happens to many individuals, they end up going to a loan shark because they can only get $400 from a payday lender, they can get anywhere between $500 to 3,000 which is the average cost, because when it comes down to just going a grocery store, buying groceries, it is almost $500 just to buy groceries not to mention any other kind of payment that you have.

Ms. JACKSON. Congressman, even in installment loaning, we did have a witness here from Nebraska, and they do have 13 license installment lenders there. But it has to be a secured loan, and it also has a 16 percent per annum, but because it is a banking entity, they don't have to show their origination fees or other fees as part of the calculation. We need a bigger, honest dialogue about what the loans look like in comparison to costs in APRs and fees, what is included and what is not.

Mr. BACA. I know that my time has expired, but doesn't this bill specifically allow chartered institutions to offer products that will allow and promote building of savings of credit and history scores?

Ms. JACKSON. Yes, sir.

Mr. BACA. I agree with you; that is why there is bipartisan support for this.

Chairwoman CAPITO. I couldn't tell by the way you posed that question.

Mr. Huizenga?

Mr. HUIZENGA. Thanks, Madam Chairwoman, I am not quite sure how I follow up that softball. Ms. Bishop, I do apologize. I came in right after your testimony. But I want to have you explore a little bit about what you believe is—whether it is a threat somehow to your business, will it put the pawn industry out of business, and just hear a little bit about that and get some other opinions on that as well.

Ms. BISHOP. We feel that it would create an unlevel playing field in the market where you have a Federal charter holder who is not subject to the same licensing regulations, fees, and examination that an individual pawnbroker is on a daily basis through their State, in my case, my State banking department, my city license, my county license. In some States, there is a requirement for continuing education for pawnbrokers. That would not be required of a Federal charter.

Mr. HUIZENGA. This is purely bad lawyering maybe, not knowing the answer to the question before you ask it, but my impression is that it is not common to have a pawn owner own in multiple States in that kind of thing, is that accurate?

Ms. BISHOP. Most of our 1,800 to 2,000 members of the National Pawnbrokers Association are small, independent, family-owned businesses, maybe two or three shops, maybe up to a dozen, and usually not across State lines. In some cases, they do have shops in multiple States, but not usually.

Mr. HUIZENGA. Mr. Berlau or Ms. Jackson or anybody else, do you believe this is a threat to the pawn industry?

Mr. BERLAU. Congressman—

Mr. HUIZENGA. I need you a little closer to the microphone so we can hear you in the room, but not everybody—

Mr. BERLAU. Congressman Huizenga, if I can offer an analogy. Sometimes you have banks with just one branch who get chartered by the Federal Government, the OCC, we hear First National, others and sometimes there are very large State banks, so I do not—and I scrutinize legislation like this for what burden it places on small business, see what the burden is on a small pawnshop or lender applying to the OCC and being able to carry that charter and being able to offer some innovative products, that small businesses, small lenders develop.

Mr. EDWARDS. If I may respond, what this bill is a threat to, it is a threat to financially fragile households staying afloat.

Mr. HUIZENGA. Do you believe that the pawn industry has that same threat? Have you seen Pawn Stars? Because if you are talking about $7 on a $100 loan as being a threat, what about walking in and saying you know what, I don't have time to wait for it to get pawned, my $1,000 item, I have to sell it for $500, because I understand the person owning the store has to make a profit. And the only way for them to look at it is pretty much doubling their money, is that not a threat?

Mr. EDWARDS. As I mentioned before, it is a direct threat to the financial viability of low-income households.

Mr. HUIZENGA. Which is, pawning or—

Mr. EDWARDS. This bill.

Mr. HUIZENGA. Do you have a problem with the industry or a problem with the bill?

Mr. EDWARDS. The way the bill is drafted, yes, sir, we have a problem with this particular piece of legislation. It is not so much the industry. What we are concerned about is, if loans are made, they have to be sustainable loans, transparent loans, loans that are not designed to perpetuate financial debt traps. And what this legislation would do is it would grant the charter holders essentially a national hall pass to go where they want, and when they want, and do on a Federal level what they haven't been able to do, or some instances, it has been scatter shot on a State level.

Mr. HUIZENGA. But you would acknowledge that some States have much tighter and some have much looser laws, correct?

Mr. EDWARDS. There are varying—amongst the 50 State jurisdictions, there are varying laws. But this particular piece of legislation would allow the charter holders to circumvent those laws, and that is a problem because the States have a keen interest in this, they are on the ground, they are on the front lines combating some of the more toxic abusive products. And they know what is best for their citizens.

Mr. HUIZENGA. So I assume, you like what happens in Chairwoman Capito's State of West Virginia where it is not allowed, but maybe don't like what is happening in another State that has absolutely no restriction. How do we maybe balance that out?

Mr. EDWARDS. I tell what you we like, we like to see consumers in loans that they can afford, no balloon payments, no loans with exorbitant APRs. Those are the things that are not good for the consumers and make them worse off than they were before they took out a loan.

Chairwoman CAPITO. Mr. Meeks?

Mr. MEEKS. Thank you, Madam Chairwoman. I am sorry; I have been listening to some of the hearing up in my office and running around from meeting to meeting. But I felt compelled to make sure that I get back here to ask a few questions. But also, in listening, I think that I have lived the life, I sit up here as a Member of Congress today, in a nice suit, et cetera. But I come from public housing, my parents didn't have a lot of money, and they lived from paycheck to paycheck. And certain times, certain things would happen, they needed some money and they had no options.

The option is to go out to a loan shark or someone else, and if you don't pay it back, they are going to beat you in the head, that is my experience. And I find that poor people especially have no options when they are trying—they are smart people, in fact, they know how to rob Peter to pay Paul. In my household, that is what you did: robbed Peter to pay Paul to make sure you could make it to the next day. The fact of the matter is, if that wasn't the case, I might not be sitting here today because certain times, my parents had to rob Peter to pay Paul to help me get through school. If they didn't, the school would have put me out if tuition wasn't paid. You have to figure out how you get certain things done.

So that becomes extremely important because the whole idea, I think, is to put the loan shark, as my good friend Mr. Baca indicated, out of business. Now if you wanted to do something that, let's say make all the banks, make all the banks give low or small loans, they won't do it. Why? Because it is not in their interest. They can't make money from it or whatever the deal. Nobody talks about that, but if you made all the banks give short-term loans to help individuals who needed to just make it for a month or so, then we might not be here.

The reality is those banks don't exist. Therefore, if you don't have a bill like this, there are no options. So the person who is poor, who wants to rob Peter to pay Paul, has no options and wants to do the right thing, so therefore they may go to someone who ultimately is really bad for them.

So with the voice of knowing what my life has been, trying to figure it out. Mr. Flores, let me bring you into the discussion. If a bill like H.R. 6139 is not adopted, tell me, do you know of any other viable approach for ensuring that individuals like myself in the past, or my family, underserved consumers, who are unable to obtain smaller loans from banks who are typically currently have only an limited number of relatively high-cost credit alternatives from non-bank lenders, that are allowed by State laws and had a broad range of more innovative and affordable credit laws in terms of their needs.

If we don't do this, if we don't pass something like this, what other alternatives or options would someone like my family have when I was growing up, that they would have today if we don't pass a bill like this?

Mr. FLORES. There are very few options. As a matter of fact, on page 22 of my report, this for the five boroughs of Manhattan, it shows where the bank branches are and are not, and the bank branches are leaving the communities, the low- to moderate-income communities where a lot of where your constituents live. And so the only people who are there providing loans are the alternative financial services providers. And they cannot get the same service from State to State because of the vagaries of State legislation.

And so we need to offer something that allows the options. We are not mandating somebody to go out and get a loan, whether it is an overdraft, a payday loan, or installment loan or title loan. All we are saying is we are giving them options based upon their specific needs to do what is in their best interest.

Mr. MEEKS. Let me ask this question too, because I think I heard the last panel, there was an OCC witness concerned about the applicability of consumer protection laws and standards under this bill, under H.R. 6139. Under this bill, and I open this up to anyone, would NCCCs be subject to the Equal Credit Opportunity Act? Would they be subject to the Truth in Lending Act, or how about the Fair Credit and Billing Act? I throw it out to anybody.

Ms. JACKSON. Congressman, we are now. If you are a State license lender, you are following these Federal laws and we will continue to do so.

Mr. EDWARDS. Congressman, if I can briefly respond, as the bill is drafted, it lists these credit companies which must comport with some of the laws that you mentioned, which are about 18 statutes that were transferred to the CFPB, but what it does not mention specifically with respect to the CFPB is UDAAP authority, and I think that is problematic because the CFPB has invested with this particular authority to regulate, to make sure that it stamps out any unfair deceptive abuses or practices. And this bill specifically does not mention that and that is problematic.

So if I could back up one second and respond to your previous point about being a single-family household and not having many credit options. I, too, grew up that way and my mom often visited a pawnbroker, and sometimes the TV was there and sometimes it wasn't, I missed Saturday morning cartoons and that was it. But thankfully she did not seek out a payday lender, it would have kept her and us in long-term debt.

Chairwoman CAPITO. The gentleman's time has expired. Mr. Grimm?

Mr. GRIMM. Thank you, Madam Chairwoman. Just so I can get some perspective on this, Ms. Bishop, maybe you can help me. Approximately how many $2,000 loans does the average pawnbroker make in a year?

Ms. BISHOP. Thanks for that question. And this kind of goes back to what your colleague spoke about, Pawn Stars and the television shows. What you see on TV is not what happens every day, and actually, our statistics are that on the average, pawn loans are redeemed 85 to 90 percent of the time across the country. They are not—not everybody is bringing in a Civil War cannon to sell to somebody.

Mr. GRIMM. I'm sorry, my time is really short. The question, though, is how many $2,000 loans a year on average would a pawn—

Ms. BISHOP. It depends where you are located. In my particular instance, a $1,000 loan would be a big loan for me. In more metropolitan areas, say, New York and Los Angeles and so forth, a $2,000 loan would not be out of the ordinary. How many times a year, I have no—

Mr. GRIMM. Percentage-wise compared—I am assuming where you are, an average loan is probably $300 or $400.

Ms. BISHOP. Actually nationwide, the average pawn transaction is between $100 to $150.

Mr. GRIMM. So compared to that, is it a very small percentage nationwide?

Ms. BISHOP. That would be making $2,000 loans?

Mr. GRIMM. Yes.

Ms. BISHOP. Yes.

Mr. GRIMM. Okay. And I think that is a big part of what we are here discussing today is that the mid-size loans, there is a tremendous void, there is a complete lack of options for people. And we just heard that is a small amount of what pawnbrokers are doing.

Ms. BISHOP. But it is not a small amount compared to the licensing and everything that we have to do under our State laws.

Mr. GRIMM. Okay.

Ms. BISHOP. We would still have to do things that a Federal charter holder wouldn't.

Mr. GRIMM. Do you think pawn loans should be the only option for American consumers of modest means?

Ms. BISHOP. No, sir.

Mr. GRIMM. What other options does your company have for consumers who need small loans but don't have any collateral?

Ms. BISHOP. Our State legalizes payday loans, and it has been that way for about 10 years. I am in a town of about 4,000 people. There are six payday stores in that town, there are four community banks, and one credit union.

Mr. GRIMM. Do you have your own company or do you just represent the others?

Ms. BISHOP. I have my own pawn store, yes, sir, Dollar Pawn.

Mr. GRIMM. Okay, at your pawn store, can I get a loan from you if I have no collateral?

Ms. BISHOP. You can get—I also have a payday loan license, and you can get a payday loan, under State supervision from the State of Alabama, their guidelines.

Mr. GRIMM. Okay.

Ms. BISHOP. And I pay for that license separately.

Mr. GRIMM. Mr. Edwards, you mentioned before that you were very concerned about the predatory nature of some of these loans and that the States are in a position to manage that, but does that mean the CFPB and the OCC can't do that?

Mr. EDWARDS. No, that does not mean that at all. The concern here is that the OCC, under H.R. 6139, would have the authority to approve products, to grant national charters, and prescribe regulations for the charter holders. And that is a concern because the CFPB has the authority under Dodd-Frank to regulate these nondepositories.

Mr. GRIMM. But the CFPB's job, even if that charter is granted, is to make sure the entity that was given a charter is, in fact, not harming the consumer with some of the devastating things you said. Am I wrong? Am I misreading the legislation?

Mr. EDWARDS. If your question is, is the specific mission of the CFPB to protect consumers and then force Federal consumer financial law, you are correct, Representative. But what this bill will do, it completely circumvents the CFPB's authority to do so with respect to certain nondepository entities, and that is concerning, as well as preempt some of the tough State consumer protection measures that are out there.

Mr. GRIMM. I disagree. I don't think it takes anything away from the CFPB, and the language in the bill is very, very clear on that, but my time is up. I yield back.

Mr. RENACCI [presiding]. Mr. Green for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman, and I thank the witnesses for appearing. Ms. Bishop, it has been revealed that you have hands-on experience in the sense that you actually operate a business. Is this correct?

Ms. BISHOP. Yes, sir.

Mr. GREEN. Let me just ask by way of a show of hands, are there other persons who actually operate a business that will be impacted, operate the actual business?

Ms. JACKSON. I'm an employee of a business, a very large business.

Mr. GREEN. Pretty large.

Ms. JACKSON. Yes, sir.

Mr. GREEN. I am not trying to demean you; I appreciate what you have been able to accomplish.

Ms. JACKSON. A Texas-based business.

Mr. GREEN. Maybe I will do some follow-up on what you said about a Texas-based business. Ms. Bishop, as the only person on the panel who actually operates a business, I detected a sense of urgency from you that I haven't sensed in the others, and I assume some of it emanates from your concern for the life of your business.

You have expressed some of these concerns. Are you of the opinion that your business may have to go out of business if this occurs? If you were downsized, would you lose employees? What is the sense of urgency that I can sense in your intonations and your demeanor?

Ms. BISHOP. The sense of urgency, as I said in my statement, is the creation of an unlevel playing field that would be created by a Federal charter holder, where someone, one of these mega providers could provide Internet loans, could provide pawn loans on the Internet, payday loans on the Internet, and maybe they would not have to have the same licensing regulation examination and education requirements in some areas. And it would put the independent small business owner at a deficit.

Mr. GREEN. You mentioned education—the legislation does not require education; in fact, it preempts these requirements at a State level. What type of education are you or your employees required to have?

Ms. BISHOP. In some States, there is a continuing education requirement for obtaining and keeping your pawn license. There is also, in some States, and Texas is one of them, a requirement that each employee of a pawn operation has to be licensed by the State as well. So all of this would not be subject to a Federal charter holder.

Mr. GREEN. Are you speaking today for other persons who operate similar businesses, and do they have similar concerns?

Ms. BISHOP. I am speaking for myself, and for the National Pawnbrokers Association, yes, we are very concerned about the position that it could place small independent family-owned businesses in, and some of these businesses have been in operation for generations.

Mr. GREEN. Are most of these small businesses less than 25 people? More than 25 people? 100 people? What are we talking about when we say small business?

Ms. BISHOP. I guess I am probably a good example. I have 5 employees, and that includes myself, and that can go up to maybe 25, 30 employees in a larger store that maybe runs longer hours of operation. It is an operational question, and location as well.

Mr. GREEN. So a simple exemption for your business that would exclude you from this would not suffice, because your concern is the competitive disadvantage that you will find yourself having to negotiate in if this passes. Is that a fair statement?

Ms. BISHOP. Yes, sir.

Mr. GREEN. It is just not enough to say, okay, we will let the pawnbrokers be exempt. Your concern is whether you will have existence. Is that what you are telling me?

Ms. BISHOP. Yes, sir.

Mr. GREEN. And let me ask you now about how you have through these—how many years have you been in business?

Ms. BISHOP. Twenty-four.

Mr. GREEN. Twenty-four years.

Ms. BISHOP. Yes, sir.

Mr. GREEN. Do you think you know what is good for your business? Do you think you have a good sense of what works best for your business after 24 years?

Ms. BISHOP. I would certainly hope so, or I still wouldn't be there. I would have a show on TV.

Mr. GREEN. Thank you. I hope that you will continue to stay in business.

I genuinely am trying to find some sense of where we should go with all of this. And I say it to you sincerely, I have tried to stay through the entire hearing. There were other things that were tugging at me. But I want to get some sense of what we really should do, and I thank you for your testimony because you have a hands-on experience with this, and it means a lot to me. Thank you very much.

Ms. BISHOP. Thank you for your attention.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. RENACCI. I recognize Mr. Fincher for 5 minutes.

Mr. FINCHER. Thank you, Mr. Chairman.

Where Mr. Green left off to Ms. Bishop, why again would you be at a disadvantage if this bill is passed? Specifically, what is going to put you at a disadvantage to competitors?

Ms. BISHOP. First of all, I pay well over $1,000 just for my licenses.

Mr. FINCHER. Your competitors would not pay that?

Ms. BISHOP. They wouldn't pay State or local licensing, no, sir. That is one thing right off the bat. Put a pencil to it.

Mr. FINCHER. Okay. And you would have to pay that, and they wouldn't?

Ms. BISHOP. Yes, sir.

Mr. FINCHER. Why wouldn't you just not pay it?

Ms. BISHOP. Because I am not a Federal charter holder, and if I am going to stay in business in my State, I have to be licensed.

Mr. FINCHER. Okay. So it just would be the license and the fees. That is what would put you at a disadvantage. And how much are those fees in a year?

Ms. BISHOP. It could also be—in my particular case, with one store, it is in excess of $1,000. It also could create—if they can operate, a large Federal charter holder can operate more efficiently and at less cost to them, they may be able to undercut the fees and services that non-Federal charter holders are able to offer. There is lots of potential for—there is blue sky.

Mr. FINCHER. I get it.

How many stores do you have?

Ms. BISHOP. I have one.

Mr. FINCHER. You have one. And what is your gross revenue in a year?

Ms. BISHOP. Approximately $400,000 to $500,000.

Mr. FINCHER. Okay. And the fees are $1,000, your State fees are $1,000?

Ms. BISHOP. Yes.

Mr. FINCHER. Yes, sir, Mr. Flores?

Mr. FLORES. I think we are losing sight here of something, and that is I understand small business, I have worked with a lot of small banks and the threats that competition provides. But it seems to me that the focus should be on the consumer and what is best for that consumer. And if competition brings more efficiency, lower costs, and lower fees to the consumer, then who benefits?

Ms. BISHOP. We are not afraid of competition, if it is level.

Mr. FINCHER. Let me say this, and then I am going to let Ms. Jackson speak. The consumer should have a product offered to them that is competitive, and they should be able to choose for themselves. But also there is nothing wrong with competition, and in the free market, in our system of capitalism, where making a profit there is nothing wrong with, it is something good. But we do need to make sure that we are all playing by the same rules. This is kind of complicated.

Ms. Jackson, would you like to comment?

Ms. JACKSON. One, Fran and I are good friends, and we have served together and worked for the pawn industry, and we have about 1,000 locations. But when it comes to pawn, we coexist today, large lenders and small lenders. We also have the zoning restrictions. Lots of cities don't want a pawn shop on every corner, so you have that restriction, and if you are nationally chartered, that is not going to go away.

The other thing is when you look at the OCC license holders, a lot of them are the national banks, but the majority of the license holders under the OCC are single banks in small towns. So, it is like the National Bank of Tyler, the National Bank of Gaston. It is up to the lender whether they want to be State-regulated or federally-regulated.

And believe me, if we are licensed under the OCC, we will have fees. We are going to have to pay for ourselves and all the oversight. So those fees will be realized by the national charters, just like they are for the banks today. Banks have to pay a national fee to the OCC, or they are going to pay a State license fee.

Mr. BERLAU. Congressman Fincher, if it does cost less, or if it would cost less to get a Federal charter than a State license, the solution under this bill for—and I am not sure it would be, and I think the focus should be consumers—the solution for a small lender would be to apply for a Federal charter. There are one-branch banks, small banks, lots of small banks, that have Federal charters, like the First National Bank, and there is nothing that I see in this bill imposing a cost burden—indeed, the situation described was that it may cost less—preventing a small pawn shop or lender from getting a Federal charter under this bill.

Mr. FINCHER. I am confident—again, you are successful in your businesses—that in America you will find a way to make it work, because that is who we are as a country. But, again, I think we need to be careful, walk slow. But you will have the choice to choose between becoming federally-chartered or regulated by the State. And we just appreciate the testimony today and thank you for your hard work.

I yield back, Mr. Chairman.

Mr. RENACCI. Thank you.

The gentleman yields back.

I want to thank the members of the panel. I think your testimony was very informative.

The Chair notes that some Members may have additional questions for today's witnesses, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to these witnesses and to place their responses in the record.

This hearing is now adjourned.

[Whereupon, at 1:13 p.m., the hearing was adjourned.]

A P P E N D I X

July 24, 2012

Competitive Enterprise Institute

STATEMENT BY

JOHN BERLAU

SENIOR FELLOW, FINANCE AND ACCESS TO CAPITAL

COMPETITIVE ENTERPRISE INSTITUTE

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

Washington, DC

July 24, 2012

Chairman Capito, Ranking Member Maloney, and honorable members of this subcommittee, thank you for this opportunity to present testimony on behalf of my organization, the Competitive Enterprise Institute, on this hearing examining important concerns about access to credit and capital among consumers and small businesses, and both federal and state regulatory impediments to this access.

This hearing also shines light on one of the most untold stories on the workings of Congress. This story is that – believe it or not – members of Congress are working together and finding common ground on legislation that would pare down excessive regulations that block stable and transparent sources of credit and capital for both consumers and entrepreneurs. And they are doing so by getting together on bills that lower barriers for many sources that provide consumer and business financing: community banks, credit unions, and, as this hearing will explore, nonbank lenders or nondepository creditors.

First, there was the Jumpstart Our Business Startups (JOBS) Act, signed by President Obama in April after it passed this House overwhelmingly. The JOBS Act provides relief from some of the most onerous provisions of Sarbanes-Oxley and Dodd-Frank, provisions that make it especially difficult for smaller and emerging growth companies to raise capital and go public. It also greatly aided community banks by quadrupling the number of shareholders they may have without being subject to a multitude of rules from the Securities and Exchange Commission.

Then there is there is the Small Business Lending Enhancement Act (H.R. 1418) with cosponsors ranging from some of the most conservative Republicans to some of the most liberal Democrats, which would raise the cap on the business lending that credit unions can provide to their members.

And then there is the legislation that is the subject of this hearing, the Consumer Credit Access, Innovation, and Modernization Act (H.R. 6139), co-sponsored by Congressmen Blaine Luetkemeyer (R-Mo.) and Joe Baca (D-Calif.) This bill would give nonbank lenders, or nondepository creditors, the option of being chartered federally by Office of the Comptroller of the Currency (OCC), to allow them to make the same type of loans to consumers and entrepreneurs across state lines. Creating this option for these creditors – who lend every day without the guarantees of deposit insurance or other government backing -- would extend a healthy source of credit to underserved consumers and small businesses without putting a dime of taxpayer dollars at risk.

My organization, the Competitive Enterprise Institute, is a Washington-based free-market think tank that since its founding in 1984 has studied the effects of all types of regulations on job growth and economic well-being. As we have said before, we follow the regulatory state from "economy to ecology," and propose ideas to "regulate the regulators" and hold them accountable so that innovation and job growth can flourish in all sectors.

Our theme on job growth has been "liberate to stimulate," because as our Vice President Wayne Crews has observed, one doesn't need to teach – or subsidize -- grass to grow. Rather, remove the rocks obstructing its growth, and it will grow wide and tall.

My title at CEI is senior fellow for finance and access to capital. And to increase access to credit and capital, CEI proposes a public policy strategy that can best be described with a phrase sometimes associated with energy exploration: "All of the above." Banks, credit unions and nonbank lenders *all* have a role to play in expanding credit for responsible consumers and entrepreneurs. And all should be able to operate free of excessive regulation.

That's why we supported the regulatory relief for community banks in the recently enacted JOBS Act. It's why we support allowing credit unions to make more business loans to their members. And it's why we support H.R. 6139's giving nonbank lenders the same opportunity to offer financial services through a national charter that banks have had for 150 years.

CEI has long supported optional federal chartering as a part of our goal of what we call "competitive federalism."As our chairman Michael Greve, who is also a fellow at the American Enterprise Institute, puts it, "Real federalism aims to provide citizens with *choices* among different sovereigns [and] regulatory regimes." [1]

Neither states nor the federal government are perfect, and we believe the best system of regulation is fostered when they learn from each other by competing with each other, allowing consumers and entrepreneurs to help decide what system of regulation is the best. We've long supported expanding the system of optional federal chartering that has existed for banks to other financial services such as insurance.[2] The sponsors of H.R. 6139 have made a convincing case to us that optional federal chartering would work well for nonbank lenders as well.

After all, all this would basically do for unsubsidized nonbank lenders is to create the same system of optional federal chartering that has existed for banks for almost 150 years, and at the very same federal agency – the OCC. Under the Civil War-era National Bank Act, banks could apply for a national charter through the OCC. Many banks chose to stay with their state regulators, but competition from federally chartered banks lowered the cost of credit and capital for everyone.

One of the clearest examples of this is what happened in the market for credit cards when the Supreme Court clarified in its unanimous 1978 decision *Marquette National Bank of Minneapolis v. First of Omaha Service Corp* that federally chartered banks could offer credit cards to consumers across state lines. Over the next few years, not only did access to credit increase, but credit became overall cheaper. Companies slashed interest rates and fees, and many got rid of the annual fee that had previously made credit cards costly for middle class consumers. Some consumers used this access to credit irresponsibly, and some credit cards used deceptive marketing tactics, for which there should be swift punishment, but overall most American benefitted from access to credit at a much lower cost.[3]

A similar reduction in the cost of credit – and increase in access to credit -- could occur under a system of optional federal chartering for nonbank lenders. This would work to the benefit of lower income consumers – currently priced out of mainstream financial instruments such as credit and debit cards – as well as small entrepreneurs who can't get traditional bank loans or venture capital investment.

Research on entrepreneurship from the Kauffman Foundation and other respected sources, as well as some prominent specific examples, shows that there is much less of a gulf between personal credit and business credit than some policy makers may believe. Sergey Brin, for instance, started what is now Google Inc. as a college student using his personal credit card. Now-Famous filmmakers such as Spike

---

[1] Michael S. Greve, *Real Federalism: Why It Matters, How It Could Happen*, AEI Press, Washington, D.C., 1999
[2] Jennifer Smith-Bozek, "Pros and Cons of Optional Federal Chartering for Insurers," Competitive Enterprise Institute, *WebMemo* No. 1, January 15, 2008, http://cei.org/sites/default/files/Jennifer%20Smith-Bozek%20-%20Pros%20and%20Cons%20of%20Optional%20Federal%20Chartering%20for%20Insurers.pdf.
[3] Todd J. Zywicki, "The Economics of Credit Cards," *Chapman Law Review*, Vol. 3:79, 2000 http://www.globaleconomicsgroup.com/publication/the-economics-of-credit-cards/

Lee maxed out their credit cards to make their first films.[4] And the Kauffman Foundation finds that nearly half of all entrepreneurs use personal credit cards.[5]

There is also evidence that entrepreneurs utilize nonbank lenders more typically associated with consumer borrowing. Former Federal Reserve senior economist Thomas Durkin has written: "Small businesses sometimes use consumer credit products that might be considered fringe financial products. For instance, small independent businesses such as landscaping, plumbing, and handyman services may use auto title loans as a source of short-term working capital."[6]

Durkin further explains: "An independent landscaping company may need several hundred dollars to purchase sod and bushes for a job, or for temporary cash to meet payroll while finishing a job, or awaiting payment. In these cases, the proprietor may pledge his pick-up truck to obtain the necessary capital to buy the supplies to complete the job. Then when the job is complete—often only days later—payment is made and the owner can redeem the collateral."[7]

H.R. 6139 would broaden these options and lift barriers to loan innovations specifically suited to small entrepreneurs. And it also would move away from the flawed reliance on the annual percentage rate as a measure of a short-term loan's fairness and effectiveness. As I point out in my recent study, "The 400 Percent Loan, the $36,000 Hotel Room, and the Unicorn", if "the financing costs of other goods and services were measured on an annual basis, it would be easy to lob 'predatory pricing' charges against their producers as well."[8] As the distinguished economist Thomas Sowell points out, "Using this kind of reasoning — or lack of reasoning — you could ... say a hotel room rents for $36,000 a year, [but] few people stay in a hotel room all year"[9]

Closer to home, if common bank fees – such as late payment and overdraft charges were subject to the APR measurements – they would have astronomical interest rates, much higher than the nonbank short-term loans that come under such controversy. Kelly Edmiston, senior economist at the Federal Reserve Bank of Kansas City, points out in his study published in that Fed branch's *Economic Review* , that the "median interest rate" for bounced check fees — if they were measured as interest payments — would be "well in excess of 4,000 percent, or up to 20 times that of payday loans"

---

[4] "Does Credit Card Debt Harm Small Business?" Index Credit Cards, April 19, 2010 http://www.indexcreditcards.com/creditcardnews/does-credit-card-debt-harm-small-businesses/

[5] "The Kauffman Firm Survey," Kaufman Foundation, March 2008, http://www.kauffman.org/uploadedFiles/kfs_08.pdf

[6] Thomas A. Durkin, "The Impact of the Consumer Financial Protection Agency on Small Business, U.S. Chamber of Commerce, p. 18, http://www.uschamber.com/sites/default/files/reports/090923cfpastudy.pdf

[7] Ibid

[8] John Berlau, "The 400 Percent Loan, the $36,000 Hotel Room, and the Unicorn," Competitive Enterprise Institute, *WebMemo* No. 176, Feb. 6, 2012, http://cei.org/sites/default/files/John%20Berlau-The%20400%20Percent%20Loan.pdf

[9] Kelly D. Edmiston, "Could Restrictions on Payday Lending Hurt Consumers," *Economic Review*, First Quarter 2011, http://www.kansascityfed.org/publicat/econrev/pdf/11q1Edmiston.pdf.

Now, I don't believe we should ban or put ceilings on overdraft fees or put any thicket of new regulations on banks and credit unions. As I noted previously, CEI supports an all-of-the above strategy for access to credit and promotes consumer choice and consumer responsibility with true disclosure. But I do believe that some non-bank short-term loans – be they for weeks or for months – could be a better alternative for many consumers than overdraft fees. In deciding whether to put restrictions on credit, we need to look at what consumers would use as alternatives for emergency cash were the law to deny them choices in legitimate credit.

The final benefit to H.R. 6139 is that as we expand the universe of small-loan options and providers, America's financial system becomes that much less reliant on large financial institutions deemed by some as "too big to fail." Former Federal Deposit Insurance Corporation Chairman William Isaac is respected by both parties for his advice on reducing systemic risk through reforming accounting and capital rules. Isaac now says in a written statement submitted for the record of this hearing (a statement I have also included as an Exhibit for this testimony), under the legislation, "these federally chartered and regulated short-term lenders will be required to raise their capital and funding entirely from private sector sources without the benefit of any federal guarantee." He notes that the safety and soundness "record of non-bank short-term lenders over recent decades has been impressive in good times and bad. "

I'd like to end with the optimistic note that I believe this Congress can once again prove the media wrong and pass a bipartisan piece of legislation that "liberates to stimulate" by lifting the regulatory barrier sthat block access to credit for responsible consumers and entrepreneurs. Thank you again for inviting me to testify, and I look forward to answering your questions.

Exhibit 1

STATEMENT of

WILLIAM M. ISAAC

Former Chairman, Federal Deposit Insurance Corporation,

July 24, 2012

I commend the subcommittee for conducting this hearing on the important issue of access to credit for cash-strapped consumers and small businesses. I wish I were able to participate in the hearing in person and would appreciate my written statement being made part of the record.

I am former Chairman of the Federal Deposit Insurance Corporation; Senior Managing Director & Global Head of Financial Institutions for FTI Consulting; and Chairman of Fifth Third Bancorp. The opinions I express are my own and do not necessarily reflect the views of these organizations.

I appreciate Congressmen Luetkemeyer and Baca taking the time to fashion an innovative approach to increasing the flow of small loans to individuals and businesses. As reported in the "findings" of their bipartisan bill, studies by the FDIC and others "have shown that roughly half of all American families . . . are literally living paycheck-to-paycheck." I think we can all agree that we need more education in financial literacy, and we need more stable sources of credit.

I believe the proposed Consumer Credit Access, Innovation, and Modernization Act's creation of optional federal chartering for non-bank lenders is an innovative approach that could yield many benefits. It's difficult for me to see a downside to the bill.

The legislation would create an optional federal charter for non-depository lenders at the Office of the Comptroller of the Currency, which has chartered national banks for 150 years. The legislation instructs the Comptroller to focus on the "true cost" of the loan product rather than the annual percentage rate (APR) and facilitates the offering of short-term lending products best suited to the needs of borrowers, beyond payday lending.

I have long been critical of interest-rate ceilings that restrict or effectively prohibit short-term personal loans from banks and non-bank lenders. While the APR provides useful information to consumers when comparison shopping for loans, it is inappropriate to use it to cap interest rates on short-term lending.

Hearing about a 390% APR for a payday loan, for example, is at first blush jarring. But after thinking about it more carefully, one recognizes the value proposition. The APR on a payday loan is much lower than the APR on a typical fee for a bounced check or for a late mortgage or credit card payment, or the fee for getting your electricity turned back on after it has been cut off due to late payments. The loan fee is definitely much less than the lost income when you can't get to work because you can't afford to get your car repaired. These are typical of the choices facing customers who take out a short-term loan.

The plain truth is that tens of millions of people from all walks of life decide their best option is to do business with non-bank, short-term lenders. The terms are very easy to understand – you borrow $200 and you pay back $230 two weeks later. Critics claim this amounts to predatory lending, a charge I don't understand. The loans are unsecured and if you default, there is not much the lender can do except not grant another loan. The lender cannot evict you from your house or take your car. It's not economic for the lender to even file a collection suit.

The legislation addresses directly the criticism that payday loans are never really repaid – just renewed over and over. I believe this criticism is blown out of proportion, particularly in comparison to other types of borrowing. The high APRs and short maturities on payday loans make it impossible to keep the rollover game going for very long, in contrast to credit card and other revolving debt.

In any event, to the extent rollover loans are a problem, it is largely because state regulatory barriers effectively prohibit lenders from offering borrowers more suitable options, such as installment loans, which most lenders would very much like to do. As John Berlau of the Competitive Enterprise Institute noted in a recent paper, "In California, a nonbank lender can make a payday loan in the maximum amount of $300 or an installment loan in the minimum of $2,500. This leaves a big gap in the middle."

The Luetkemeyer-Baca legislation will help bridge this gap by allowing safe, regulated and innovative loans to flow across state lines and benefit consumers and small businesses. It will do so without exposing taxpayers to any risk, as these federally chartered and regulated, short-term lenders will be required to raise their capital and funding entirely from private sector sources without the benefit of any federal guarantee.

The financial record of non-bank short-term lenders over recent decades has been impressive in good times and bad. Short-term lending is relatively risky, but the risks are ameliorated due to diversification in the portfolio, and the risks are priced into the fee structure. It is quite feasible to maintain high loan loss reserves and strong capital against short-term loans and achieve good returns if the short-term lender is an efficient operator.

Reducing unnecessary regulatory barriers will increase competition for bank and non-bank lenders and will foster sustainable sources of credit for consumers and small businesses. This will in turn stimulate economic growth and job creation. The Luetkemeyer-Baca bill appears to be an important step in the right direction and deserves a fair hearing and serious consideration.

Prepared Statement of Frances C. Bishop, Haleyville, Alabama

On behalf of the National Pawnbrokers Association and the Alabama Pawnbrokers Association

Committee on Financial Services

Subcommittee on Financial Institutions

July 24, 2012

Chairman Capito, Ranking Member Maloney, and Honorable Members of the Subcommittee, my name is Fran Bishop. I have owned my own pawnshop for 24 years and have served the National Pawnbrokers Association (NPA) as its president and as chair of its government relations committee. I also have been actively involved with the Alabama Pawnbrokers Association.

The NPA, the only nationwide pawn trade association, represents more than 1800 independent owners of pawn stores across the United States. By number of stores and percentage of the overall pawn market, our membership dwarfs the three publicly traded companies in the pawn industry. Independent, family-owned pawn stores or small regional chains represent approximately 78 per cent of the market for pawn transactions. None of the publicly traded pawn companies are members of our Association. None have any authority to speak for the Association or the pawn industry as a whole. Our members serve roughly 30 million consumers across the United States every year. The NPA only represents pawnbrokers; the Association takes no position on other non-depository providers' products.

The NPA is strongly and unequivocally opposed to both H.R. 1909 and H.R. 6139. We recognize that the sponsors of both bills were well-intentioned, but we see both bills as having consequences far beyond those the sponsors intended, which we describe below in greater detail.

H.R. 1909 and H.R. 6139 qualify as among the most sweeping deregulations of financial service providers ever introduced into Congress. Either bill, if passed, would allow a small number of mega providers to grab huge market shares and to be subject to relatively little or no regulatory oversight at the federal or state levels. But most of us who operate independent, family-owned, community-based providers will continue to be subject to the array of federal, state and local laws and regulations that the industry supporters of these two bills want to escape. And being free of those levels of laws and regulations will save the big charter holders so much money that they can price their products well below ours and keep their profits high. These bills will place millions of middle-class consumers at the mercy of these large, remotely operating companies and place thousands of family-owned, local businesses like mine at enormous competitive disadvantage.

I. Industry Overview and Compliance Requirements: Pawnbrokers, the oldest providers of consumer credit in the world, enjoy a long working relationship with the States. New York enacted the first state law regulating the pawn industry – a consumer protection law, I might add in the 1890's. Many other states enacted pawn consumer protection laws during World War I and others since the explosion of consumer credit products occurred in the 1960's and 1970's.

Pawnbrokers are among the most heavily regulated providers of consumer credit products in the nation. We are regulated by local governments, as well as being supervised and examined by the States. In most states, a single state agency issues our general business licenses. In all states, law enforcement agencies can inspect our records. State-level regulation of the pawn industry allows the States to make laws that suit the needs of their own residents. Over the years, many of the more populous States, such as New York, California, Michigan, Ohio, Illinois, and Massachusetts, have enacted lower permissible ceilings on the interest and other charges pawnbrokers may charge. Some of the less populated States allow higher interest rates and charges to enable pawnbrokers and other traditional State-licensed lenders to offer credit to their residents. A few larger States allow among the highest interest rates in the nation. One thing we have learned is that States enact laws that fit their residents' interests and that regulation of pawn transactions are not "one-size-fits-all" propositions no matter how much anyone claims they are. This bill, however, effectively allows federal charter holders to "export" the interest rates and charges from one state to the next, taking away from the States the power to decide what packages of interest rates and charges make sense for that State's residents.

Pawnbrokers must comply with thirteen assorted federal laws and regulations. The majority of these are federal consumer credit protection laws, including laws enforced by federal bank regulatory agencies, the Federal Trade Commission, the Department of Defense, and now the Consumer Financial Protection Bureau (the CFPB). Other applicable laws and regulations involve reporting of cash transactions to the Internal Revenue Service and compliance with the anti-money laundering laws and anti-terrorism laws enforced by agencies within the Department of the Treasury. Pawnbrokers are subject to the CFPB for enforcement and rule-making purposes, but are not subject to the same examination and supervision authority that the CFPB has over payday and title lenders, mortgage originators, or student loan originators.

It's pretty clear to us that escaping the general jurisdiction of the CFPB, and particularly that agency's powers to examine and supervise them and to promulgate regulations over their products, is a major goal of industry supporters of H.R. 1909 and H.R. 6139.

Freedom from the CFPB's grasp is not the only reason why certain large companies want the protections that H.R. 1909 and H.R. 6139 offer them. They also want to escape from restrictions being imposed on their products by the States that granted them their current corporate charters and licenses to operate – whether those restrictions are imposed by State legislatures or by the voters of the States in which they wish to operate unfettered. States including North Carolina, Ohio, and Georgia have restricted or prohibited products that the companies supporting H.R. 1909 and H.R. 6139 want to offer. Others States such as Pennsylvania have insisted that companies seeking to do business with their residents get licensed and operate under the terms of those licenses. Citizens in Missouri will be voting in the general election this fall on new limits on certain loan products (but not on pawn loans) following a successful ballot drive by residents and prominent church groups in that State.

The NPA's independent, family-owned members stand ready to play the same role in the consumer credit market that we have played for more than 120 years under state regulation and since Christopher Columbus pawned Isabella of Spain's jewels to finance his search for the New World, and the Vatican financed the kings in Europe. We're a vibrant group with the interests of our local customers, employees, and local communities at heart.

Independent pawnbrokers are the nation's "safety net" lenders to individuals who do not have credit cards or bank accounts. We help middle-class Americans get to work, buy trade supplies, and we help business owners make payroll when their business customers do not pay them on time. We help families of soldiers deployed, injured and killed abroad cope with the emergency financial needs they have. Big providers located outside communities are not likely to care as much or do as much for individual customers in need as we do, or to help out the local church or police benevolent associations with charity campaigns.

H.R. 1909 and H.R. 6139 are likely to wipe our businesses off the map and destroy the locally provided credit and tens of thousands of jobs in communities like yours for the benefit of a few large companies.

II. NPA's General Concerns about H.R. 1909 and H.R. 6139: As far as the NPA is concerned, the overall credit market should continue to have both a wide array of products from which consumers can choose, and a wide array of providers. In other words, we believe that more competition, not less, makes for a better overall consumer credit market.

However, both H.R. 1909 and H.R. 6139 would have the result, in a relatively short period of time, of reducing the number of providers in the overall market. Lessons from the past tell us that fewer competitors mean higher prices for consumers and small businesses, not lower prices. Anyone whose neighborhood lost a pharmacy, grocery store, or gas station knows that prices rise when fewer competitors are in the local market.

Both bills make it sound as if non-depository consumer financial services providers are not regulated sufficiently and thoroughly. We objected when banks tried to use this argument to cause more attention to be paid to non-banks during the Dodd-Frank Act debate. We object now that this same argument is being used to suggest that the Office of the Comptroller of the Currency (OCC) will necessarily do a better job of regulating non-depository providers and products than the states have been doing for decades.

A. Effect on State Consumer Protections: Consumers in our States enjoy consumer protections that are enforced and the states also see to it that we meet our obligations under federal laws. The manner in which pawnbrokers and pawn loans are being regulated is working: one rarely hears consumer complaints about pawn transactions. That old adage about "not fixing what's not broken" comes to mind every time I hear or read about how state-licensed providers need more federal supervision.

Moreover, the bills would leave as the primary enforcer of important consumer protection laws and regulations the OCC, an agency that already has enormous responsibilities for the safety and soundness of all national banks and for their compliance with federal consumer credit protection laws. No matter how sincere the OCC's intentions are to exercise the important supervisory roles Congress assigns to it and to perform the same level of supervision and enforcement over new non-depository providers to whom the OCC grants federal charters, it is unrealistic to expect that non-depository providers will or should compete for attention with the banks on which other parts of the national and global economies depend.

Thus, enactment of either H.R. 1909 or H.R. 6139 virtually guarantees that non-depository charter holders will get less attention from regulators and enforcers of federal consumer credit protection laws than they have for the past 40 years. This is clearly what the industries and industry members urging enactment want. Indeed, a careful reading of H.R. 6139 reveals that *the OCC will have less power over products offered by non-depository charter holders than it has over the depository providers in its jurisdiction, national banks and federal savings associations.*

B. Effect on Markets: These giant companies and certain individuals want to control the market for consumer financial products for the millions of consumers who either do not have bank accounts or who normally do not get bank loans for their short-term credit needs, persons not only among the most eager to have credit opportunities and to build credit histories, but also among the most vulnerable. The bills' supporters want to take the market shares that their competitors have – by being allowed to slash their costs and thus under-cut our prices while retaining their profits (or increasing them) to out-compete us – with a federal charter and complete freedom from the enforcement of laws the States have enacted providing the juice for their plans.

These giant providers want Congress to give them this extraordinarily un-level playing field, and NPA's members hope you will have the good sense and respect for States' rights not to give industry supporters of these bills this charter bonanza.

National banks have never been big players in the consumer credit market, except in their roles as issuers of credit cards, and leading up to the 2008 recession, in their roles in housing finance. Instead, local banks, credit unions, and state-licensed non-depository providers such as pawnbrokers have been the bread-and-butter providers of consumer credit, and particularly of installment loans and of short-term loans. Pawnbrokers are the major safety-net lenders to middle-class Americans.

III. Specific Concerns about H.R. 1909 and H.R. 6139: Contrary to representations you may have heard, H.R. 6139 is just as much about offering a small number of potential providers of practically unlimited consumer credit products as is H.R. 1909. Both are go-anywhere, offer-anything "perpetual hall pass" type of legislation. If anything, H.R. 6139 gives more authority to providers than H.R. 1909 does.

A. Specific Concerns about H.R. 1909, which:

•allows non-bank lenders to make any type of loan, consumer or commercial, with no dollar limits in any location or through any medium of their choice with virtually no regulation *of the products or providers* by any federal or state regulator;

• limits ownership of non-bank charter holders to certain giant providers in the non-bank and bank sectors, and excludes all but the biggest players from holding charters;

• allows charter holders to avoid making the Annual Percentage Rate (APR) disclosure required by the federal Truth in Lending Act (TILA) since 1969, but keeps the requirement in place for other bank and non-bank providers;

•allows charter holders to make loans larger than state law permits for lenders currently licensed under state law;

• preempts all State laws and State law-writing authority, as well as State enforcement authority, with a preemption standard that is much broader than Dodd-Frank's preemption standard;

• exempts federal charter holders from all State and local licensing fees, thus depriving them of revenues and transferring for these giant providers those state and local revenues to the OCC, but leaves their competitors subject to fees;

• overrides State legislation that bans payday loans as an exercise of the "police powers" that the States expressly reserved when they signed the United States Constitution, or that limits the terms on which consumer products may be offered – including frequency and conditions or rate caps, but leaves all such restrictions in place for all other providers;

• eliminates all State powers to enforce laws, such as State fair lending laws, depriving States of their "police powers" over entities who market and provide products in their States; and,

• exempts charter holders from the CFPB's jurisdiction for all purposes, but leaves current competitors under the CFPB's jurisdiction for all purposes.

B. Specific Concerns about H.R. 6139, which:

• still limits charter eligibility to "qualified non depository creditors" and gives the OCC discretion on approving charters for applicants;

•requires only an initial, three-year plan to operate "its primary business activity" as serving the needs of underserved consumers and small businesses. This "three-year plan period" is the only period in which the applicant must explain how its products will be affordable;

• exempts all products not part of the suite of products for "underserved consumers and small businesses" from regulation and enforcement by the OCC as well as from regulation and enforcement by the States. Products outside the suites will not be subject to the supervision or regulation of the CFPB or other federal or State agencies;

• allows persons in joint ventures or affiliated with charter holders to enjoy benefits comparable to those H.R. 6139 would give charter holders, thus extending the bill's huge umbrella powers to providers not under the supervision of the OCC or CFPB, or, effectively, of the States without even the opportunity for a regulatory agency to approve their participation or to supervise them; and

• gives charter holders additional authority to engage in activities that are "incidental, implied, or reasonably necessary" to carry out the express powers granted in the bill. The terms "incidental, implied, or reasonably necessary" are common terms in federal statutes and case law interpreting the National Bank Act and have been, particularly since 1960, the sources of greatly expanded powers being exercised by national banks. These boot-strap adjectives, if retained in the final bill, would allow charter holders a wider expanse to engage in bank-like activities, with the exceptions of taking deposits or making commercial loans in excess of $25,000 small business loans, than even this broad bill appears to allow. These additional powers also suggest that the bill's real intent is to create unlimited powers beyond products for underserved consumers and small businesses without review by appropriate Federal or State regulators or and reference to State laws that currently regulate products in the general consumer loan marketplace.

C. <u>H.R. 6139 does not:</u>

• require that "more affordable" consumer credit products be offered to consumers – indeed, because no restrictions or "rate caps" can be placed on credit products, there is no guarantee that consumers will realize any savings over the costs of products currently being offered by state-licensed competitors of the bill's industry supporters. The bill's repeated references to products that are "commercially viable" make the lip service to affordable products look even weaker. Nothing in H.R. 6139 actually requires "affordable" terms for credit products;

• require many protections for underserved consumers. The exclusive protections described include (a) a once-annual opportunity for an underserved consumer who is unable to repay an extension of credit with a term of less than 120 days to obtain a no-cost extended repayment plan, (b) products or services with features to facilitate personal savings or to assist in enhancing credit records, but only "to the extent reasonably possible" – which means no requirement at all, and (c) a ban on consumer loans of 30 days or less or extensions of credit unless it has a "reasonable basis" for believing the consumer can repay the loan;

• restrict the ability of payday or other lenders whose products have been restricted by the States to offer products similar to payday loans so long as they are of at least 31 days' duration. Just call these *stretch* payday loans;

• merely "replace" the APR disclosure required by the TILA since 1969. Rather, H.R. 6139 exempts all consumer credit extensions with terms of one year or less from all of Subpart A of Subchapter I of TILA, among TILA's most valuable requirements. The result is the loss of useful credit shopping tools to the class of consumers who most needs to be educated about and engage in comparison shopping for credit;

• do much to help consumers who are underserved enhance their credit standing;

• allow "only OCC approved loans" to be offered. The bill's "deeming approved" provisions, its high hurdle for OCC disapproval of products, and the 45-day limit on the OCC's opportunity to disapprove products means that most products will come to the market just as the provider wants them to be and without explicit "approval" from the OCC. The OCC can disapprove products only based on a "fair and reasonable determination of the facts and circumstances regarding a proposed financial product or service" and must conclude that "offering the proposed product or service will significantly harm the interests of underserved consumers or small businesses." Thus, you should expect that OCC disapproval will be extremely rare, and that is what H.R. 6139's industry supporters hope will be the result of these requirements.

• require the use of model forms or any other standardized replacement for TILA's model forms or standardized APR credit cost disclosures. Creditors will be free, unless directed otherwise by OCC regulations, to make "true cost disclosures" without restriction on how they present the information;

• allows the OCC to take action against providers of products "deemed approved" only to ensure that products will not significantly harm underserved consumers or small businesses;

• give the OCC any authority to regulate any other product offered by the charter holder if the product is not offered for the underserved or small business markets. Thus, H.R. 6139 provides no regulatory power whatsoever by any federal entity, and a complete escape from regulation and licensing by every unit of state government for all products other than those specifically designed for underserved consumers and small businesses. This bill would create, for the majority of products that charter holders may seek to offer, a small group of unregulated credit providers;

•grant any approval, supervision, or enforcement powers to the CFPB or any other federal or state regulator of products offered by charter holders, contrary to representations made by industry supporters of H.R. 6139. This appears to include insured depository institutions and bank and thrift holding companies, which are currently subject to jurisdiction of the FDIC or the Board of Governors of the Federal Reserve System (Board);

• provide any protection for consumers against offshore lenders or lenders based on or affiliated with sovereign tribes in the United States. The bill may help charters holders compete against these two classes of lenders, but it will not stop consumers who choose to use those lenders from doing so. It grants no new federal enforcement authority to thwart offshore lenders operating in the United States, and indeed weakens the States' ability to act to prevent remote offshore, tribal, or online lenders from taking advantage of consumers;

•provide the CFPB authority to oversee the activities of charter holders. H.R. 6139 expressly grants exclusive "examination and supervision" authority over charter holders and the responsibility to "monitor" charter holders' compliance with the charter act and "all other applicable laws and regulations" enumerated in Dodd-Frank's section 1002(12) to the OCC. H.R. 6139 gives to the OCC exclusive power to prescribe regulations to govern products offered by charter holders – with the very limited powers to disapprove or condition approval of products noted above;

* give the OCC power to regulate "unfair, deceptive, or abusive powers" that the CFPB has and the FTC also has; and

• provide any the CFPB authority to enforce federal consumer financial protection laws (as enumerated in section 1002(12) of the Consumer Financial Protection Act of 2010, 12 U.S.C. 5481(12) against charter holders. The only other entity with enforcement powers under H.R. 6139 will be the attorneys general of the States (or the holders of equivalent State powers). State AG powers will be limited by H.R. 6139's "consultation" requirements except in "emergency" cases and the OCC will have power to replace the State AG as plaintiff and remove the action to federal courts.

IV. <u>Conclusion:</u> H.R. 6139 is H.R. 1909 in the Emperor's New Clothes. Both are sweeping changes in the diversified regulatory landscape for consumer financial products and services that exists today. Both are huge grabs of regulatory authority from the States without a national emergency or comparable national interest as justification. Both bills create a new bureaucracy inside the OCC. H.R. 6139 just grants less authority to the OCC, and more to the companies that support it and plan to become charter holders.

Both bills will permit charter holders to operate at vastly reduced costs by eliminating most of their current compliance obligations at the State and local levels, granting broad preemption powers over State and Federal efforts to regulate their activities, and allow them in the not distant future to impose oligopoly powers in a vastly less-populated market. Providers with such powers eventually will be able to impose significant and permanent price increases on the consumers and small businesses they claim need their help to get credit once they undercut their competitors (that includes my business) and drive us from the marketplace. Both bills will allow elite companies and individuals to take economic benefit out of our communities and shift it to some other State.

On behalf of the NPA and the tens of millions of consumers who are our customers, consumers we know and work with when they need credit, and the thousands of individuals our members employ in local communities like yours, we urge subcommittee members – and the members of the Committee as a whole – not to vote for H.R. 1909 or H.R. 6139. I mentioned my impression that these bills are a lot like the Emperor's New Clothes. But, down in northern Alabama, my customers would more likely say that these bills are like "pigs in a poke." And whichever of these analogies one uses – that pretty much sums up why the NPA's membership opposes these bills.

Thank you for this opportunity to share the views of the National Pawnbrokers Association, which proudly represents independent, family-owned providers of pawn loans and tens of millions of consumers who use our services every year. We are proud contributors to the communities and consumers we serve. I respectfully request that this prepared statement be made part of the formal record for this hearing.

Testimony of Kenneth W. Edwards
Vice President of Federal Affairs, Center for Responsible Lending

Before the House of Representatives Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit

Hearing: Examining Consumer Credit Access Concerns, New Products and Federal Regulations

July 24, 2012

Chairman Capito, Ranking Member Maloney, and Members of the Subcommittee:

Thank you for inviting me to testify on better understanding the regulatory regime for non-depository creditors, and my views on H.R. 6139, the "Consumer Credit Access, Innovation, and Modernization Act."

I currently serve as Vice President of Federal Affairs for the Center for Responsible Lending, a nonprofit, nonpartisan 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 with a 30-year-track record of serving low-income, rural, women-headed, and minority families. Self-Help manages a total of $950 million in assets for approximately 90,000 families in North Carolina and California.

In my testimony today, I would like to emphasize the following three points:

- **H.R. 6139 would circumvent the carefully contemplated supervisory, enforcement, and rulemaking authority of the Consumer Financial Protection Bureau (CFPB or Bureau) over certain non-depository financial institutions.** The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) consolidated consumer protection statues and authorities that had previously been scattered among many different agencies. Dodd-Frank also significantly augmented federal consumer protection jurisdiction over non-depository institutions—such as mortgage services companies, private student lenders, and payday lenders—and sought to level the playing field by carefully vesting the CFPB with authority over these non-bank entities. In particular, Congress identified payday lenders as important non-depository creditors to be regulated under the Bureau's supervisory authority.
- **H.R. 6139 would expressly allow non-depositories to evade 230 years' worth of state consumer protection laws, licensing, and supervision that are essential to protecting vulnerable consumers from abusive financial practices.** Throughout the previous decade, the OCC has used national charters as a basis to preempt state consumer protection measures to the detriment of many borrowers. By obtaining a federal charter, qualifying non-bank creditors could evade state consumer protections, while availing

themselves of weaker standards that would be used in the federal chartering process. The bill would also permit federal charter holders to ignore state usury limits or rate caps on small loans that have been in existence for decades.

- **H.R. 6139 would roll back important federal credit protections for consumers.** The bill would undermine more than 40 years of established and accepted consumer protections under the Truth in Lending Act (TILA) by exempting lenders from annual percentage rate (APR) disclosure obligations on loans. Under the bill, for loans of one year or less in duration, credit companies would be required simply to disclose the cost of a loan as a dollar amount and as a percentage of the principal amount of the loan. This would make it much more difficult for borrowers to compare the true cost of different products.

1. **H.R. 6139 would circumvent the CFPB's carefully contemplated supervisory, enforcement, and rulemaking authority over certain non-depository financial institutions.**

The CFPB is the primary federal regulator with explicit supervisory, enforcement and rulemaking authority over large depository institutions and certain non-depository entities, including payday lenders. Title X of Dodd-Frank tasks the Bureau with consumer protection through rule writing, supervision, and enforcement to ensure that markets allow borrowers to gain access to—and choice among—financial products and services that are fair, transparent, and competitive.

In just one year, the CFPB has begun to create sensible rules of the road for financial markets through a balanced and level regulatory playing field for market participants. Without such evenhandedness, consumers would be exposed to a financial marketplace rife with the very kinds of abuses that led to the financial crisis. The CFPB's supervisory purview over non-depository entities is prudently designed to improve the quality of services in this sector and enforce federal consumer financial law.

H.R. 6139 poses a direct threat to the CFPB's ability to protect consumers. By enabling non-bank lenders to seek a federal charter under the OCC, the bill would hamper the Bureau's oversight of some of the riskiest and costliest financial service providers in the marketplace. For instance, under the bill, the OCC has the explicit authority to (1) review and approve financial products that charter holders plan to offer to consumers and (2) prescribe regulations containing standards regarding the product's approval. The bill directly conflicts with Section 1031 of the Dodd-Frank Act, which grants the CFPB express authority to prescribe rules to prevent creditors from engaging in unfair, deceptive, or abusive acts or practices (UDAAP). Under, H.R. 6139 financial products might be approved by the OCC could also violate Dodd-Frank's prohibition against UDAAP. Such a scenario would present both a confusing and an incongruent regulatory framework—resulting in both agencies butting heads in federal court, after protracted and intense inter-agency litigation. In addition, such a structure would create unleveled playing field between non-depository consumer credit lenders who are chartered by the OCC and those chartered at the state level. One of the key goals in establishing the CFPB was to create uniform standards that apply to all consumer finance providers, irrespective of charter. H.R. 6139 would undermine that.

In addition, H.R. 6139's procedure for approving products tilts in favor of qualified chartered holders, with the OCC required to presume that a product was safe, unless it could demonstrate that the product would "significantly harm" borrowers. The OCC would have only 45 days to make such a determination.

H.R. 6139 would also require the OCC to conduct examinations and supervisory activities for its non-depository charter holders. This is, however, is not the OCC's primary mission, which is to safeguard depository financial institutions, not protect consumers from deceptive or abusive lending practices. Indeed, this limited mission focus of the OCC was a reason why Congress created the CFPB in Dodd-Frank.

As we saw in the mortgage crisis, the OCC and other federal regulators were not effective concerning consumer protection. We also saw that, in the long-term, measures that could have been put in place to protect consumers (such as restrictions on paying originators more for placing borrowers in costlier and more dangerous loans) would also have been better for lenders and for the larger economy. The CFPB was created largely because federal consumer protection functions were widely dispersed among multiple federal regulators that were charged with protecting institutional safety and soundness. This meant that regulators were not able to adequately protect consumers, or even properly regulate the industries they oversaw with a long-term outlook on safety and soundness.

While the CFPB's explicit mission is consumer protection, it is important to note that this focus is not inconsistent with the safety and soundness mission that other regulators have. Indeed, consumer protection and safety and soundness are flip sides of the same coin. CRL's recent research that examines marketing and pricing practices prevalent in the credit card industry before implementation of the CARD Act—and the connection between these practices and company performance during the recent economic downturn—illustrates that strategies of maximizing short-term revenue by using unfair or deceptive lending practices led to increased risk and lower profits during the downturn, undermining a bank's safety and soundness.[1] Common-sense curbs on unfair lending practices increase market transparency and bolsters firms' financial strength. Accordingly, this benefits customers, investors, shareholders, and ultimately taxpayers.

[1] Joshua M. Frank, Predatory Credit Card Lending: Unsafe, Unsound for Consumers and Companies," Center for Responsible Lending, May 2012, available at: http://www.responsiblelending.org/credit-cards/research-analysis/Unsafe-Unsound-Report-May-2012.pdf

H.R. 6139 also would establish a two-tiered financial regulatory system that would expose some households to risky, high-cost financial products offered by non-depository lenders that undermine their financial well-being, and could drive them out of the banking system, while consumers with access to mainstream banking services would enjoy the full protections of the CFPB. Both data and history tell us that communities of color, low-income and women-headed households are those who would disproportionately be targeted by these abusive financial practices. H.R. 6139 would harm, not help, the un- and under-banked, pushing them further to the economic margins, as discussed in further detail below.

2. **H.R. 6139 would expressly allow non-depositories to evade 230 years' worth of state consumer protection laws, licensing, and supervision that are essential to protecting vulnerable consumers from abusive financial practices.**

Under H.R. 6139, non-depository charter holders would be able to offer financial product terms that some states have either expressly prohibited or heavily regulated—for instance, high cost payday loans. Marketed as short-term relief for a cash crunch, payday loans carry annual interest rates of 400 percent and are designed to catch working people in a long-term-debt trap.[2] The structure (including high fees, short-term due date, single balloon payment, and collateral of access to a borrower's checking account) ensure that the vast majority of borrowers cannot pay off the loan when it is due without leaving a large gap in their budget. As a result, they are forced to take out new loans after paying the first one back. In fact, some payday lenders even offer a "free" no-fee loan to lure customers in, knowing that borrowers are so cash-strapped that most cannot afford to repay the principal in two weeks and will have to renew multiple times—paying multiple fees—in order to pay back the original loan. A 2009 CRL study found that typical payday borrowers remain in debt for much of the year, and the overall duration and amount of the debt increases over time.[3] Well over 90 percent of payday loans involve borrowers who had another loan that same month—and the debt trap of 400 percent interest drives 40 percent of borrowers to eventually default.

States are the traditional regulator of most small loan products, including payday loans, offered in the U.S. In fact, state limitations on interest rates have existed for over 200 years. However, since the mid-1990s, payday lenders affirmatively sought and were often granted special authority to charge over 300 percent APR on their loans. Since 2005, a counter-trend developed and no new state has granted payday lenders and other "short-term" lenders their needed exemption from traditional small loan laws and other regulations. In fact, several states that had once allowed the terms associated with a payday loan (triple-digit annual interest rates, short-

[2] Center for Responsible Lending, "Payday Loans Put Families in the Red," Research Brief, February 2009, available at http://www.responsiblelending.org/payday-lending/research-analysis/payday-loans-put-families-in-the-red.html.

[3] Uriah King and Leslie Parrish, "Payday Loans, Inc.: Short on Credit, Long on Debt," Center for Responsible Lending, March 2011, available at http://www.responsiblelending.org/payday-lending/research-analysis/payday-loan-inc.pdf.

term balloon payments) have since reversed their decision. These states join others that have never granted payday lenders authorizing legislation.[4] In addition, three states (Ohio, Arizona, and Montana) have, in recent years, approved ballot initiatives limiting interest rates on payday loans. All these initiatives passed by overwhelming margins.

HR 6139 sets out some limited standards for consumer credit authorized under the bill. Similar provisions, however, have been circumvented by lenders who structure their financial product so as to escape the statutory protections. Payday lenders have attempted to escape these consumer protections. For example, payday lenders have attempted to evade similar provisions by offering loans one day longer than the minimum term, structuring loans as open-end loans and taking fake liens on cars in order to evade limits while still putting borrowers in debt-trap loans.

And H.R. 6139 would also sanction online lending for charter holders by explicitly prohibiting any federal or state restrictions for internet lending. The bill also authorizes "rent-a-charter" arrangements, whereby charter companies can pass on their preemption to any affiliates and even third parties.

Despite the harmful impacts of payday lending and states' efforts to rein in the financial abuses associated with this form of small-dollar credit, H.R. 6139 would permit credit companies to circumvent state laws and would prohibit the federal financial consumer watchdog—the CFPB—from acting to protect borrowers from harmful products. By obtaining a federal charter, non-depositories could exploit strong state and federal regulation in favor of weaker standards used in the OCC's chartering and oversight process.

3. **H.R. 6139 would roll back important federal credit protections for consumers.**

Since 1969, TILA has required creditors to disclose finance charges and APRs before consumers sign a loan, as a baseline credit-cost comparison measure. Payday loans, for instance, are subject to TILA's credit disclosure requirements. As a result of TILA's disclosure obligation, consumers are afforded an accurate way to gauge true lending costs across products. H.R. 6139 upsets this longstanding federal consumer protection by exempting credit companies from TILA's APR disclosure to all lenders for loans of one year or less. For instance, take two loans—one two-weeks in duration, with 10 new renewal fees—as compared to another loan, 20 weeks in duration, with only one fee. Both loans could be advertised as charging 10 percent fees, though the two-week loan would be far more expensive for consumers. This would result in a significant market-wide roll back of federal credit law.

Conclusion

H.R. 6139 would directly harm vulnerable borrowers, particularly the underserved, and should be opposed. Indeed this legislation offers nothing beneficial for consumers; on the contrary, it

[4] Other jurisdictions include New York, New Jersey, Connecticut, Maine, Pennsylvania, Georgia, Massachusetts, West Virginia, Vermont, and Maryland.

would lead to direct consumer harm—and its passage would set a precedent for many other companies to also seek to be excluded from the nation's consumer protection watchdog. As a result, we urge you to actively oppose the legislation.

Thank you again for the opportunity to testify, and I look forward to answering your questions.

U.S. House Subcommittee on Financial Institutions and Consumer Credit Hearing on:

"Examining Consumer Credit Access, Concerns, New Products and Federal Regulations"
July 24, 2012

By: G. Michael Flores, CEO
Bretton Woods, Inc.

Good morning. I'd like to thank the chairman and members of the subcommittee for the opportunity to testify today on a topic of growing concern to many in this room and one that I have followed closely over the past four years. My name is Michael Flores and I am CEO of Bretton Woods, Inc., a management advisory firm specializing in financial institutions including banks, credit unions and alternative financial services providers. With more than 30 years of experience, I have witnessed the evolution in the financial services marketplace. In 2008, this country woke to the worse economic crisis since the Great Depression. Four years later, I believe we have reached a decision point in how to deal with the credit needs of the 60+ million of Americans marginalized by the traditional banking model.

Based on my most recent study, "Serving Consumers' Needs for Loans in the 21st Century," I would argue that consumers, notably those in the low- to-moderate-income range, would stand to benefit from a new financial paradigm that recognizes the potential of alternative financial services providers. Many, but certainly not all of these consumers are part of the 60+ million Americans who are either unbanked or underbanked and who present a particularly complex challenge. In addition, there is a growing class of debanked or moderate- to-middle-income consumers who have chosen to leave traditional banking because of increased fees or because they need an unsecured personal loan, a product no longer offered by most traditional banks.

Access to credit has been an ongoing problem that has largely gotten worse with time. Difficulties for unbanked and underbanked consumers to obtain smaller-dollar loans have been the subject of increasing debate, including in a number of congressional hearings. But it's not just about low- to-moderate-income consumers because the fact is bank customers, many with what you and I would consider healthy bank accounts, are coming up short as well.

Since the 1980's, banks have used credit card lines, home equity lines and overdrafts to provide consumer credit. These are now less viable due to the poor economy and increased regulations. Overall, the community banks' focus on consumer lending has declined significantly since 1985 according to the FDIC, and during that period, unsecured installment loans all but disappeared from bank product suites due to profitability, risk and regulatory concerns.[1] Today, loans of under $5,000 are all but nonexistent and with good reason. Given their legacy cost structure and slow adoption of new technologies, banks aren't capable of making loans of under $5,000 profitably and so they don't. .

New federal regulations have played a role in adding to the burden of maintaining growth or at the least, stability and as a result, banks are examining their customer base. As my study details, the traditional banking business model relies on scale to be profitable. According to JPMorgan Chase, about 70 percent of customers with less than $100,000 in deposits and investments will be unprofitable following

[1] "Community Banking by the Numbers," FDIC Community Banking Research Project, Feb. 16, 2012

regulations that cap lenders' fees.[2] Given the level of investment required to succeed in the 21st Century, it is only rational that banks target the most profitable customer segments. The potential fall out is significant and will likely add to a further retraction in the credit market. Limiting consumer and small business credit has a detrimental impact on local economies.

Consumer financial services are clearly at a crossroad and I believe that a new financial regulatory structure is warranted. The answer points to the capabilities of alternative financial services providers. Many have invested in more efficient and cost effective technology, but costs associated with regulatory variations in 50 states naturally inhibit their ability to offer a range of standard products particularly in the $750 to $5,000 longer-term loan range. Differing states' regulations deny alternative financial services providers the ability to achieve scale thereby reducing costs now associated with operating in all 50 states. Studies of the impact of restrictive regulations in other industries, most particularly the lack of federal preemption, repeatedly show these regulations limit options and increase costs to consumers. There is room for both federal and state approved lenders as is the model for state and national chartered banks.

I would further argue that the lack of a standard product nationally, in and of itself, creates "disparate impact" on consumers. That is, nothing more than a state line can cause consumers to have to meet their specific credit needs with less than optimal and more expensive alternatives.

I understand and appreciate the impact of regulations on the financial services industry, and while not a policymaker, I close by suggesting that the simplest way to expand access to credit is to bring all alternative financial services providers under the tent of federal regulatory licensing and oversight.

My thanks to the chairman and the subcommittee for your time and I would be happy to answer questions. I am submitting my study for the record.

[2] "JPMorgan Sees Clients with Less Than $100,000 Unprofitable," Laura Marcinek, Bloomberg, Feb. 28, 2012

Serving Consumers' Needs for Loans in the 21st Century

June, 2012

Bretton Woods, Inc.

Table of Contents

Contents

About Bretton Woods, Inc.

Bretton Woods, Inc. is a management advisory firm specializing in financial institutions. Since 1988, Bretton Woods, Inc. has provided value-added services to its clients by applying business, technology, payments and earnings improvement strategies.

The firm has worked with clients on payment strategies, unbanked and underbanked issues and trends from cash and checks to card and electronic transactions. The work with insufficient funds and overdraft fees in banks and credit unions includes credit advances on debit cards and other alternative financial services offerings.

The firm continues to work with commercial banks in re-engineering efforts to attain profitability in today's regulatory environment.

About the Author

G. Michael Flores, CEO of Bretton Woods, has more than 30 years of financial institution experience through his employment in banking as well as consulting. Flores' consulting work focuses on the areas of strategic planning, fee income strategies, payment systems, process improvement through enabling technologies and alternative financial services.

Flores has testified before House and Senate sub-committees on underbanked issues raised in white papers he authored on alternative financial services, spoken to industry groups and authored several articles for industry publications. He has been a faculty member with the Pacific Coast Banking School in Seattle, Washington and the Graduate School of Banking in Madison, Wisconsin where he taught Technology's Role in Community Banking curriculum for bankers in the graduate school.

Flores received a BBA in Accounting and Management from the University of Notre Dame in 1973 and in 1974 attended the Commercial Lending School at Georgia State University. He is a Certified Mediator with the Center for Dispute Resolution, Boulder, Colorado and also with the American Arbitration Association in Atlanta, Georgia.

Executive Summary

Bretton Woods, Inc. has been advising clients and researching payments and small dollar loan alternatives since 1999. The residual impact of the 2008 economic crisis and the ensuing legislative response have resulted in a financial services market unable to adequately meet the credit needs of an increasing number of Americans. An estimated 73 million low- to-moderate-income consumers are either unbanked or they are underbanked, defined as having a checking or savings account, but relying on alternative financial services such as payday loans, rent-to-own agreements or pawn. Less well understood is a growing class of "debanked" or moderate- to-middle-income consumers who have chosen to leave traditional banking because of increased checking account fees or they need an unsecured personal loan, a product no longer offered by most traditional banking institutions. Together, the unbanked, underbanked and debanked constitute an enormous challenge for regulators and the financial services industry moving forward.

This report looks at the historical perspective of the traditional banking system, explores the credit market including trends, options and providers and details the relationship of consumer credit to economic growth. A comprehensive examination confirms a void in current banking and alternative financial services, in particular for unsecured installment loans from $750 to $5,000, and concludes that there is a demonstrated need for a more efficient and innovative financial system.

Key Findings

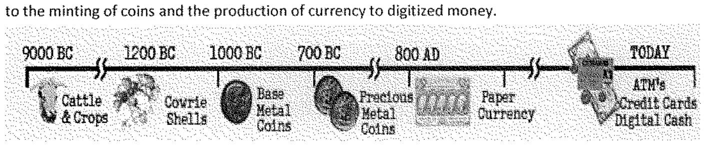
- **Consumer loans under $5,000 are unprofitable under the traditional banking model and as a result, the credit needs of low- to-moderate-income individuals and small businesses are no longer fulfilled by most community banks and credit unions.** Impediments include the industry's legacy cost structure, reliance on brick and mortar service delivery outlets and slow adoption of new technologies embraced by younger consumers.

- **Some alternative financial services providers have built more efficient and cost effective technology, but typically offer only low-dollar products which are limited in availability due to differing states' regulations.** Impediments include inconsistent product offerings among states, elimination of certain products based on state law, and increased compliance costs for companies operating in multiple states.

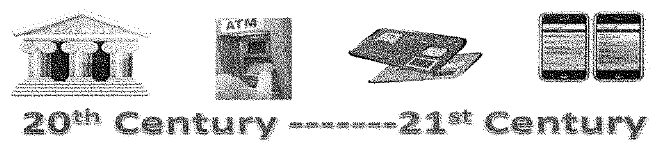
- **A new banking model for low- to-moderate-income consumers must be built to better serve this community which has been marginalized by traditional banks.** While alternative financial services providers may serve as a foundation for a new consumer banking model, the myriad of state regulations inhibit the introduction of a standard product. Studies of the impact of restrictive regulations, including the lack of federal preemption, repeatedly show these regulations limit options and increase costs to consumers.

State of Legacy Banking

Throughout the history of mankind, paying for goods and services has evolved from barter in various forms to the minting of coins and the production of currency to digitized money.



The advent of banks as a financial intermediary between savers and borrowers has also evolved from the stately marbled edifices to a more self-service model with ATM's, debit and credit cards and mobile banking.



Traditional banks are maintaining all of these service delivery elements at a significant cost. Adding to these costs are the additional regulatory burdens that considerably hamper community banks, those banks under $1 billion of assets. There are 6,290 commercial banks under $1 billion as of December 31, 2011[1]. They represent the following:

- **93% of all banks**
- **17% of all assets**
- 21% of all bank employees
- 20% of all loans
- 19% of total deposits
- 20% of interest income
- 28% of interest expense
- 14% of deposit service charges
- 18% of premises costs
- 13% of net operating income

FDIC data from December 31, 2011 indicate that banks under $1 billion of assets are much less efficient than larger banks. The efficiency ratio (noninterest expense, less the amortization expense of intangible assets, as a percent of the sum of net interest income and noninterest income) for banks over $1 billion is 60.26% versus 71.12% for banks between $100 million and $1 billion and 78.11% for banks under $100 million. In essence, it costs smaller banks more to generate a dollar of revenue.

[1] http://www2.fdic.gov/sdi/

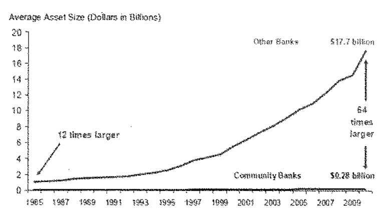
The following chart indicates the elements of profitability for these banks based on December 31, 2011 FDIC data.

	All Commercial Banks 12/31/2011 $ in 000's	All Commercial Banks - Assets less than $100M 12/31/2011 $ in 000's	All Commercial Banks - Assets $100M to $1B 12/31/2011 $ in 000's	All Commercial Banks - Assets more than $1B 12/31/2011 $ in 000's
Number of institutions reporting	6290	2143	3633	514
% of Total Banks	100%	34%	58%	8%
Yield on earning assets	4.29%	4.88%	4.88%	4.23%
Cost of funding earning assets	0.67%	0.95%	0.98%	0.64%
Noninterest income to earning assets	2.01%	1.12%	0.97%	2.12%
Noninterest expense to earning assets	3.54%	3.97%	3.43%	3.55%
Net operating income to assets	0.87%	0.54%	0.57%	0.90%
Return on assets (ROA)	0.90%	0.59%	0.61%	0.93%
Pretax return on assets	1.28%	0.71%	0.79%	1.33%
Return on equity (ROE)	8.06%	5.03%	5.91%	8.28%
Retained earnings to average equity (YTD only)	2.91%	0.22%	2.43%	2.98%
Efficiency ratio	61.19%	78.11%	70.12%	60.26%
Assets per employee ($ millions)	6.48	3.47	4.06	6.92
Cash dividends to net income (YTD only)	63.90%	95.70%	58.98%	63.99%
Equity capital to assets	11.12%	11.59%	10.58%	11.16%
Core capital (leverage) ratio	8.93%	10.94%	9.86%	8.82%
Tier 1 risk-based capital ratio	12.65%	17.33%	14.50%	12.43%
Total risk-based capital ratio	15.03%	18.46%	15.73%	14.93%

These community banks are at a clear disadvantage with higher interest expense, lower service charges and lower operating income than the 500+ banks over $1 billion. A clear indicator that larger banks benefit from scale is the amount of assets ($ million) supported by employees. For banks over $1 billion, one employee supports almost $7 million of assets versus $4 million of assets per employee for banks between $100 million and $1 billion, and $3.5 million of assets per employee for banks under $100 million.

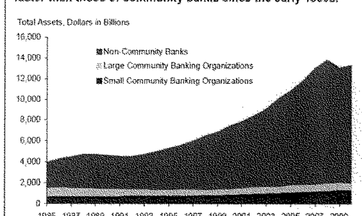
The disparity is even more profound when you consider that the top 50 banks represent .65% of all banks but control 65% of all deposits. Large banks were, on average, 12 times larger than community banks in 1985. The difference has grown to 64 times in 2010.

Community banks tend to be small, and the size disparity with other banks is growing.



Source: FDIC Community Banking Research Project

The total assets of non-community banks have grown much faster than those of community banks since the early 1990s.



Source: FDIC Community Bank Research Project

BearingPoint produced a white paper [2]on *"ARE YOU TRANSFORMING OR JUST TRANSACTING? THE MODEL FOR THE 21ST CENTURY RETAIL BANK"*. The following table highlights the changes banks must pursue to survive:

STRATEGY AREA	20TH CENTURY	21ST CENTURY
CUSTOMER SEGMENTATION	• Customer relationship understood in relation to products held • Limited understanding of customer profitability	• Customer-oriented/structured institution providing full range of financial product on customer-defined basis (transaction to full-service) accessible to customers on their terms and requirements and with focus on customer service
CHANNEL	• Siloed channel with limited process or data integration • Employee interaction focused on servicing	• Multichannel delivery with human relationships/sales focus and automated servicing/support • Branch as retail and/or advisor function • Channel-integrated rather than siloed
SERVICE	• Priority on sales/efficiency rather than satisfaction • Disparate service between channels and products and disjointed problem resolution	• Enterprise service platform across channels with combination of automated and human service support based on customer preference, but with design to incentive automation
SALES	• Reactive/mass market sales focus • Focus on direct mail • Product focus, sales campaigns in branch • Uncoordinated between channels • Open loop between marketing and sales	• Development with sales/service role for all front-office staff with human resources/training/compensation linked to both customer satisfaction/sales • Automated origination to improve customer service (processing time) • Integration/coordination of marketing and sales process
PRODUCT	• Product differentiation focused on pricing • Slow time-to-market for new products	• Ability to bundle/wrap products with rapid time-to-market for new products and ability to offer customizable products
COMPLIANCE/ RISK	• Regulation-specific reporting • Manual/spreadsheet-based data analysis/ collection • Business-level risk systems	• Enterprisewide compliance-consistent processes/data management platform with automated reporting that can meet evolving compliance requirements and provides benefits to other functions • Consistent/top-down manageable process for sales (for risk management/compliance)
PAYMENTS	• Siloed payment systems by product • Manual processing	• Minimal paper/human interaction in payment and process (exceptions management) across checks and existing electronic payments, with access to payments across all channels
OPERATIONS	• Multiple points of data re-entry • Manual processes • No consolidation/central view of processes • Separation of operations center and channels	• Single point of capture/data entry • Automated processes • Enterprise content management allowing multisite processing • Consolidation view of operations/site/workforce optimization/workload balancing

Banks are trying to serve two constituencies. In addition to older customers who still want to use bank branches and paper transactions, banks are attempting to build a more virtual service delivery model for younger consumers. Many in the industry question the viability of community banks under $1 billion in assets.

[2] http://www.finextra.com/Finextra-downloads/featuredocs/BearingPoint_21st%20Century%20Retail%20Bank.pdf

Only the largest banks with the necessary resources will be able to make the changes outlined. The traditional banking business model clearly relies on scale to be profitable. Given the level of investment required to succeed in the 21st century, it is only rational that banks target the most profitable customers segments.

According to JPMorgan Chase & Co.[3]:

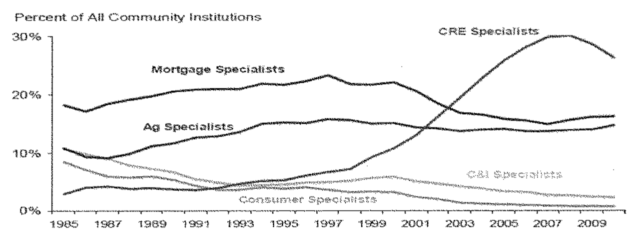
> "...said about 70 percent of customers with less than $100,000 in deposits and investments will be unprofitable following regulations that cap lenders' fees."
>
> The biggest U.S. banks are grappling with lost revenue from regulations that cap debit interchange fees and overdraft charges, making customers with low deposits more expensive for lenders to manage. JPMorgan, run by CEO Jamie Dimon, sees its greatest opportunity with affluent customers that have more relationships with the company.
>
> "Lost revenue has to be replaced with higher share of wallet and customer penetration," Maclin said. "You have to get your costs and where you spend your time, to the fullest extent possible, more in line with where the opportunity is."

[3] http://www.bloomberg.com/news/2012-02-28/jpmorgan-views-clients-with-less-than-100-000-to-invest-as-unprofitable.html

Consumer Credit

Since the 1980's banks have used credit card lines, home equity lines and overdrafts to provide consumer credit. Overall, community banks focus on consumer lending has declined significantly since 1985 according to the FDIC[4].

Change in percent share among main community bank specialty groups, 1985-2010



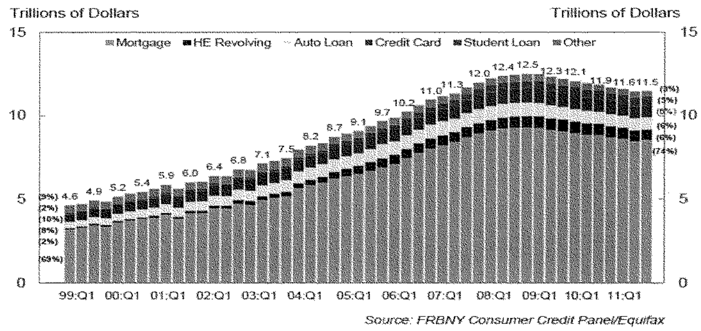
Source: FDIC Community Banking Research Project

During that period, unsecured installment loans all but disappeared from bank product suites due to profitability, risk and regulatory concerns.

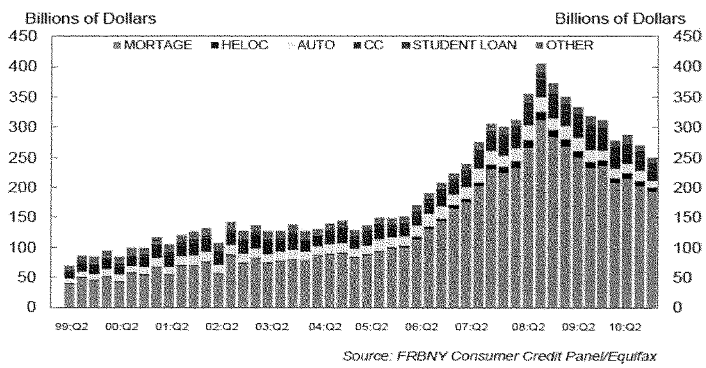
[4] http://www.fdic.gov/news/conferences/communitybanking/community_banking_by_the_numbers_clean.pdf

Trends in Unsecured Consumer Installment Credit

The following data from the Federal Reserve Bank of Richmond[5] depicts total debt balance and its composition from 1999 to 2011. While total consumer credit has more than doubled, unsecured consumer installment credit has fallen from 9% to 3% of the total.

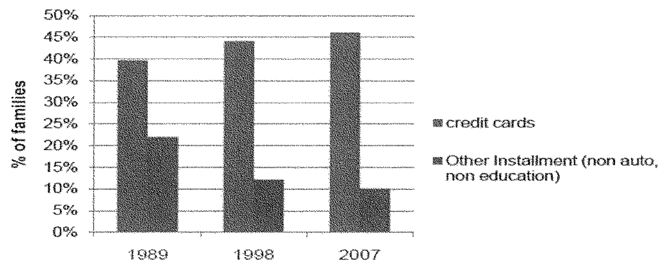


Additionally, delinquent balances by loan type for unsecured consumer credit have remained fairly stable.



[5] http://www.richmondfed.org/research/regional_economy/regional_view/macheras/2011/pdf/2011-07-19_macheras_slides.pdf

Unsecured installment credit has been supplanted by credit cards since 1989.



Source: Survey of Consumer Finance 2007 Chartbook

Types of Available Consumer Credit

The following outlines the types of available consumer credit. Auto and home loans are not included since the focus of this study is on loans for purposes other than the acquisition of longer term assets.

Need	Product	Collateral	Amount	Duration	Benefit	Risk	Availability
Unanticipated	Overdraft	Unsecured	< $500	Less than 30 days	Less expensive that bouncing a check	High cost for low dollar overdraft	From banks in all 50 states
Anticipated	Payday,	Unsecured	< $500	Less than 30 days	Immediate access and less expensive than an overdraft	Multiple rollovers	AFS providers in 31 states
Anticipated	Installment Loan	Unsecured, Closed end	$500 - $5000	Closed end – 6 – 36 months	Less expensive than short-term options	With appropriate underwriting, there are limited risks with this product	Very few banks and limited from AFS providers due to different state regulatory environments
Anticipated	Credit Card and Revolving Line of Credit	Unsecured, Open end	$500 - $5000	Open-ended	Less expensive than short-term options but may be more expensive than installment	Extended repayment and cost if minimum payments are made	From banks based on the credit score, lines and balances are increasing. This is not an option to many consumers with poor credit.
Anticipated	Pawn	Secured	Varied	Less than 30 days	Quick access	Loans amounts are a low percentage of collateral value. Potential loss of collateral	Widely available from AFS providers depending on state regulations
Anticipated	Title	Secured	Varied	Varied - Up to 44 months or more	Option for consumer with no access to unsecured installment credit	Limited amount based on value of collateral	From AFS providers in approximately 20 states

Credit card, bank overdrafts and home equity lines of credit have substantially replaced installment loans due to the more cost efficient means of delivering these types of credit and the tax advantage of home equity advances. Economists from the Federal Reserve noted "revolving credit, particularly credit card debt, has substituted for small installment loans because of its ease of use and availability..."[6]

Credit cards appear to be the primary source of low-dollar, unsecured credit for consumers, but not necessarily the best choice in some situations. That is, many consumers would prefer to match a loan for a specific need with a defined payback schedule. Credit cards make it too easy to default to the minimum payment and are subject to a change in terms – both which extend the cost of credit well beyond a fixed payment term.

FDIC Small-Dollar Loan Program

Most banks do not offer unsecured low-dollar consumer loans. In our consulting practice, we have advised banks since the 1990's to set a minimum loan amount that can profitably be offered to the consumer. Our break-even model indicates loans of $5,000 are the minimum loan amounts that can be profitable. The amount varies based on the unique cost structure of the bank. To address this issue, banks offered credit cards and overdraft programs to fill the need for unsecured consumer credit. Consumers with homes could use HELOCS (home equity lines of credit) for secured loans, but with the dramatic loss of real estate value, HELOCS are no longer a viable option for many.

In February 2008, the FDIC began a two-year pilot project to review affordable and responsible small-dollar loan programs in financial institutions. The pilot was a case study designed to illustrate how banks can profitably offer affordable small-dollar loans as an alternative to high-cost credit products such as payday loans and fee-based overdraft protection.

An excerpt from the report discusses the costs associated with offering this product:

"...pilot bankers indicated that costs related to launching and marketing small-dollar loan programs and originating and servicing small-dollar loans are similar to other loans. However, given the small size of SDLs and to a lesser extent NSDLs, the interest and fees generated are not always sufficient to achieve robust short-term profitability (emphasis added). Rather, most pilot bankers sought to generate long-term profitability through volume and by using small-dollar loans to cross-sell additional products."

In the longer term, *"About three-quarters of pilot bankers indicated that they primarily used small-dollar loans to build or retain profitable, long-term relationships with consumers and also create goodwill in the community. A few banks focused exclusively on building goodwill and generating an opportunity for favorable Community Reinvestment Act (CRA) considerations, while a few others indicated that short-term profitability was the primary goal for their small-dollar loan programs."*

It is clear that on a stand-alone basis these loans were not profitable to originate, underwrite and process.

[6] http://www.federalreserve.gov/boarddocs/rptcongress/creditscore/creditscore.pdf

This is consistent with our models that indicate that individual consumer loans under $5,000, depending on cost allocations, are unprofitable for the traditional bank to offer. Exhibit II depicts a model that only considers direct costs of origination and processing with no overhead allocation for systems, space, compliance and management. **The minimum loan amount is just over $5,000.**

Consumer Loan Activity

Key findings according to an Equifax press release[7] in July 2011 stated:

Auto

Auto loan originations rose nearly 17 percent year-to-date in April and are up nine percent month-over-month. While both banks and captive financiers are originating more auto loans, banks are being much more cautious in the subprime sector. Captive finance sources (e.g., Ford Motor Credit, etc.) issued almost 25 percent of new loans to buyers with scores under 600 in April. The comparable bank subprime number is about eight percent.

Credit Cards

Notable within the data is the rebound in the number of bankcard originations to subprime borrowers, with an 80 percent increase in originations for April 2011 vs. April 2010 alone. New subprime bankcard origination levels for January-April 2011 are up more than 66 percent over 2010 levels. This is of note when compared to the 63 percent YOY (Year over Year) decrease the industry witnessed for the same period from 2008 to 2009. Total new bankcard limits have risen as well, with increases of more than 27 percent (January - April 2011), and new subprime bankcard credit limits experienced an increase of 68 percent.

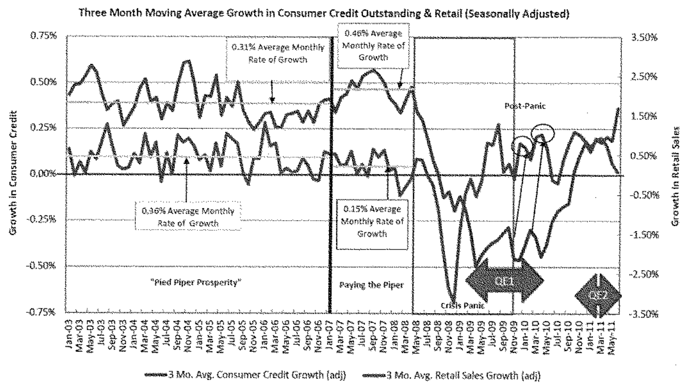
Consumer Finance

New consumer finance credit loans grew 3.5 percent year-to-date and two percent month-over-month in April, and - like bankcards and autos - show increases in subprime. In fact, loans to customers with scores below 599 - 41 percent - are up about two percent over 2010 and almost 10 percent over 2006.

[7] http://news.equifax.com/index.php?s=18010&item=97085

Relationship of Consumer Credit to Economic Growth

Daniel Alpert, Managing Director of Westwood Capital, LLC[8], analyzed the growth of consumer credit which is growing at the highest rate in the last decade. The following chart depicts the relationship trend between consumer credit and retail spending since January 2003.



Some would argue that that too much consumer credit is harmful to both the individual and to the economy, but access to credit is a necessity to most. Credit is useful not only when the individual's transaction demands are uncertain but also when the individual tries to plan purchases. Credit provides a tool against unanticipated changes to income or spending and for financing transactions where sales or other promotions can reduce the overall cost of a transaction.

Utilization of consumer credit could increase savings and provide consumers with the ability to purchase goods or services at an earlier time period or fulfill other needs when cash is not available.

Use of credit, savings or increased wages drive consumer spending. One argument is that excess leverage by consumers helped to fuel the financial crisis beginning in 2008. There are, however, economists who state that consumers' access to credit is the quickest way to spur economic growth. From a Reuters article dated January 9, 2012[9]:

> "Outstanding consumer credit increased by $20.37 billion during the month, the Federal Reserve said on Monday. That was the biggest gain since November 2001 and nearly three times the median forecast in a Reuters' poll.

[8] http://www.westwoodcapital.com/wp-content/uploads/2011/08/Back-to-the-Future-Again-080911.pdf
[9] http://www.reuters.com/article/2012/01/10/us-usa-economy-consumercredit-idUSTRE80823O20120110

"Revolving credit, which mostly measures credit-card use, increased $5.60 billion, a third straight monthly increase. 'Credit growth is a positive sign for the recovery in that it signals increasing demand and willingness to spend,' said Paul Edelstein, an economist at IHS Global Insight in Lexington, Massachusetts..."

Sizing the Market

Underbanked Individuals

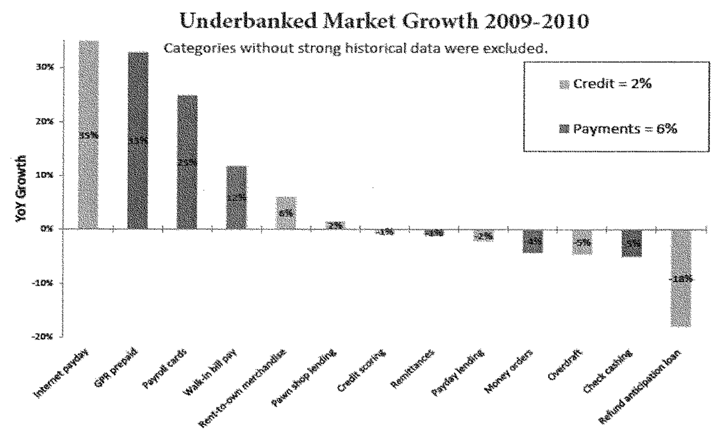
The most widely quoted metric for the number of unbanked and underbanked in the United States comes from the 2009 FDIC National Survey of Unbanked and Underbanked Households. It stated there are 9 million unbanked and 21 million underbanked. An update to this report is due to be released later in 2012. A report from Core Innovation Capital and CFSI[10] estimates the number of unbanked and underbanked to be 60 million. The U.S. Postal Service Office of Inspector General published a report[11] in October, 2011 that estimated 40 million households (73 million individuals) are either unbanked or underbanked.[12]

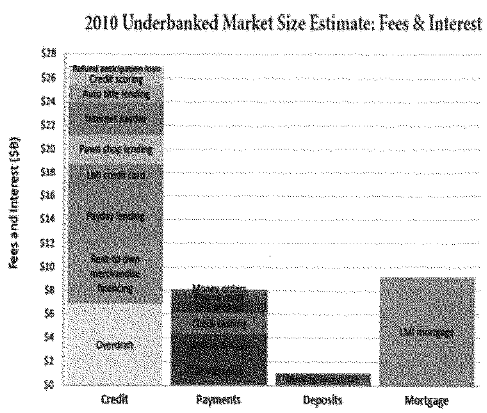
Data[13] developed by the Washington Credit Union League found:

- One unbankable baby born every 7 seconds
- One bankable/account-holding adult death every 13 seconds
- One unbankable international immigrant every 27 seconds
- Net gain of one unbankable person every 11 seconds or 2.8 million every year

[10] http://cfsinnovation.com/system/files/09-11,%20Marketscan_final.pdf
[11] U.S. Postal Service Office of Inspector General October 3, 2011
Digital Currency: Opportunities for the Postal Service RARC-WP-12-001
[12] http://www.uspsoig.gov/foia_files/RARC-WP-12-001.pdf
[13] http://www.slideshare.net/JosephSam/serving-the-unbanked-wcul-ppt

A report[14] by Core Innovation Capital and CFSI, *2010 Underbanked Market Size,* shows the annual growth of services used by the underbanked from 2009 to 2010.

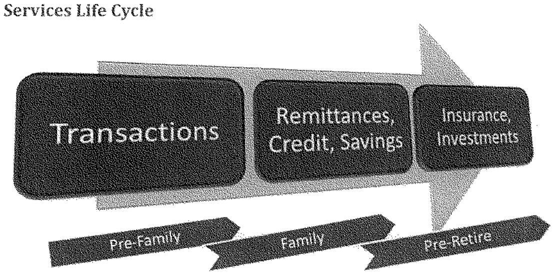




The credit category represents products and services that allow consumers to borrow funds on a short-term basis. The payments category is comprised of products and services that allow consumers to send funds, transact with funds, and convert funds into another form such as cash or a money order. The deposit category consists of traditional bank depository products. Mortgages have been placed in their own category because, although they function as a credit product, they can also enable consumers to build assets through equity accumulation.

14 http://cfsinnovation.com/system/files/09-11,%20Marketscan_final.pdf

Financial Services Life Cycle



Many tend to think of moderate-income consumers in terms of individual services rather than a holistic view. That is, these consumers have needs for a variety of financial services and these needs tend to be cumulative over a lifetime.

A study[15], "The Regulation of Consumer Financial Products: An Introductory Essay with a Case Study on Payday Lending", with Howell Jackson, Brigitte Madrian, and Peter Tufano, Chapter 7 in Nicolas P. Retsinas and Eric S. Belsky eds. Moving Forward: The Future of Consumer Credit and Mortgage Finance, Brookings Institution Press, dated September 2010, quantifies the financial holdings by income strata.

The following charts depict families in the lower-to-moderate income strata whose holdings include transaction accounts, CD's, savings bonds, stocks, pooled investment accounts, retirement accounts and life insurance. Installment and other non-real estate consumer credit are the primary credit drivers for these income strata.

15 http://www.google.com/url?sa=t&rct=j&q=state%20regulators%20for%20the%20alternative%20financial%20services%20industry&source=web&cd=7&sqi=2&ved=0CGUQFjAG&url=http%3A%2F%2Fweb.hks.harvard.edu%2Fpublications%2FgetFile.aspx%3FId%3D602&ei=jdh5T7mZA8rl0QH_wdmWDQ&usg=AFQjCNHs0mFe2Z2ly9LeRgpp6KD1pYHFPg&cad=rja

TABLE 1. Financial Holdings of U.S. Families in 2007

Family characteristic	Transaction accounts	Certificates of deposit	Savings bonds	Bonds	Stocks	Pooled investment funds	Retirement accounts	Cash value life insurance	Other managed assets	Other	Any financial asset
	Percentage of families holding asset										
All families	92.1%	16.1%	14.9%	1.6%	17.9%	11.4%	52.6%	23.0%	5.8%	9.3%	93.9%
By income percentile											
<20	74.9	9.4	3.6	--	5.5	3.4	10.7	12.8	2.7	6.6	79.1
20 to <40	90.1	12.7	8.5	--	7.8	4.6	35.6	16.4	4.7	8.8	93.2
40 to <60	96.4	15.4	15.2	--	14.0	7.1	55.2	21.6	5.5	10.2	97.2
60 to <80	99.3	19.3	20.9	1.4	23.2	14.6	73.3	29.4	5.7	8.4	99.7
80 to <90	100.0	19.9	26.2	1.8	30.5	18.9	86.7	30.6	7.6	9.8	100.0
90 to <100	100.0	27.7	26.1	8.9	47.5	35.5	89.6	38.9	13.6	15.3	100.0
	Median value of holdings for families holding asset ($1000s)										
All families	$4.0	$20.0	$1.0	$80.0	$17.0	$56.0	$45.0	$8.0	$70.0	$6.0	$28.8
By income percentile											
<20	.8	18.0	.5	--	3.8	30.0	6.5	2.5	100.0	1.5	1.7
20 to <40	1.6	18.0	1.0	--	10.0	30.0	12.0	5.0	86.0	3.0	7.0
40 to <60	2.7	17.0	.7	--	5.5	37.5	23.9	5.2	59.0	4.0	18.6
60 to <80	6.0	11.0	1.0	19.0	14.0	35.0	48.0	10.0	52.0	10.0	58.3
80 to <90	12.9	20.0	2.0	81.0	15.0	46.0	85.0	9.0	30.0	10.0	129.9
90 to <100	36.7	42.0	2.5	250.0	75.0	180.0	200.0	28.1	90.0	45.0	404.5

Source: Bucks, Kennickell, Mach and Moore (2009) from the 2007 Survey of Consumer Finances

TABLE 2. Financial Liabilities of U.S. Families in 2007

Family characteristic	Secured by residential property: Primary residence	Secured by residential property: Other	Installment loans	Credit card balances	Lines of credit not secured by residential property	Other	Any debt
	Percentage of families holding debt						
All families	48.7%	5.5%	46.9%	46.1%	1.7%	6.8%	77.0%
By income percentile							
<20	14.9	1.1	27.8	25.7	*	3.9	51.7
20 to <40	29.5	1.9	42.3	39.4	1.8	6.8	70.2
40 to <60	50.5	2.6	54.0	54.9	*	6.4	83.8
60 to <80	69.7	6.8	59.2	62.1	2.1	8.7	90.9
80 to <90	80.8	8.5	57.4	55.8	*	9.6	89.6
90 to <100	76.4	21.9	45.0	40.6	2.1	7.0	87.6
	Median value of debt for families holding debt ($1000s)						
All families	$107.0	$100.0	$13.0	$3.0	$3.8	$5.0	$67.3
By income percentile							
<20	40.0	70.0	6.5	1.0	–	3.0	9.0
20 to <40	51.0	42.0	9.8	1.8	1.3	4.0	18.0
40 to <60	88.7	68.9	12.8	2.4	–	4.0	54.5
60 to <80	115.0	83.0	16.5	4.0	5.1	5.3	111.3
80 to <90	164.0	125.0	17.3	5.5	–	5.0	182.2
90 to <100	201.0	147.5	18.3	7.5	17.3	7.5	235.0

Source: Bucks, Kennickell, Mach and Moore (2009) from the 2007 Survey of Consumer Finances.

Alternative Financial Services

It is clear that the traditional banking, with community banks and credit unions meeting credit needs of consumers and businesses funded with insured deposits, will not work for a growing number of consumers. Consider a National Bureau of Economic Research published paper[16], "Financially Fragile Households: Evidence and Implications," which found that approximately one-quarter of Americans report that they would certainly not be able to come up with $2,000 in thirty days.

It is our contention that banking services not just for the 60 million underbanked, but also for the moderate-income, debanked consumers, must begin with a clean slate. Alternative financial service providers have built a more efficient, cost effective, technology-driven model to serve their constituency, the moderate-income consumer.

World Acceptance Corporation, for example, reported in its 10Q SEC filing on December 31, 2011, that general and administrative costs as a percent of revenue was 48.7% (cost to generate a dollar of revenue which is equivalent to banks' efficiency ratio). Due to the risk inherent with these loans, however, its loss provision was 26.6% of revenue (note that World Acceptance operates in only thirteen states).

AFS providers must operate more efficiently because of the higher risk in the market they serve.

Effective Date 12/31/2011

• WORLD ACCEPTANCE CORPORATION 10-Q 12-31-2011 • EXHIBIT 31.1 • EXHIBIT 31.2 • EXHIBIT 32.1 • EXHIBIT 32.2 • XBRL INSTANCE DOCUMENT • XBRL TAXONOMY SCHEMA DOCUMENT • XBRL TAXONOMY CALCULATION LINKBASE DOCUMENT • XBRL TAXONOMY DEFINITION LINKBASE DOCUMENT • XBRL TAXONOMY LABEL LINKBASE DOCUMENT • XBRL TAXONOMY PRESENTATION LINKBASE DOCUMENT

	Three months ended December 31,		Nine months ended December 31,	
	2011	2010	2011	2010
	(Dollars in thousands)			
Average gross loans receivable [1]	$ 1,003,584	903,622	956,723	850,961
Average net loans receivable [2]	733,613	663,183	700,266	625,999
Expenses as a % of total revenue:				
Provision for loan losses	26.6%	25.4%	22.7%	22.3%
General and administrative	48.7%	48.7%	49.1%	49.3%
Total interest expense	2.5%	3.0%	2.7%	3.2%
Operating margin [3]	24.7%	25.9%	28.1%	28.4%
Return on average assets (trailing 12 months)	13.4%	13.4%	13.4%	13.4%
Offices opened or acquired, net	12	20	53	64
Total offices (at period end)	1,120	1,054	1,120	1,054

(1) Average gross loans receivable have been determined by averaging month-end gross loans receivable over the indicated period.
(2) Average loans receivable have been determined by averaging month-end gross loans receivable less unearned interest and deferred fees over the indicated period.
(3) Operating margin is computed as total revenues less provision for loan losses and general and administrative expenses, as a percentage of total revenue.

[16] http://www.nber.org/papers/w17072

By comparison, according to December 31, 2011 FDIC statistics, there are 2,143 banks under $100 million in assets that have an average efficiency ratio[17] (the cost to generate a dollar of revenue) of 78.11% and 3,633 bank between $100 million and $1 billion in assets with an efficiency ratio of 70.12%.

One common misperception is that alternative financial service providers are unregulated when, in fact, they are heavily regulated by the states in which they operate. Exhibit I, obtained from the American Financial Services Association (AFSA) and the Financial Service Centers of America, Inc. (FiSCA), lists the various state regulatory requirements for consumer loans, payday loans and check cashers.

The myriad of state agencies and regulations create the following:

- Inconsistent product offerings among states
- Elimination of certain products based on state laws
- Increased compliance costs for companies operating in multiple states

Our sampling of bank and consumer loan web sites indicates that there is a void in the market of unsecured installment loans, particularly loans under $3,000 with monthly repayment terms, not currently filled by either banks or alternative financial service providers. For example, the five largest banks that represent 38% of all deposits in the United States offer the following:

Bank	Unsecured Personal Loan Product
Bank of America[18]	Credit Card Only
Citibank[19]	Personal Loan - $500 - $50,000 (Must be an existing customer with other qualifying requirements)
JP Morgan Chase[20]	Credit Cards Only
US Bank[21]	Premier Loan - $3,000 - $25,000
Wells Fargo[22]	Personal Loan - $3,000 Minimum

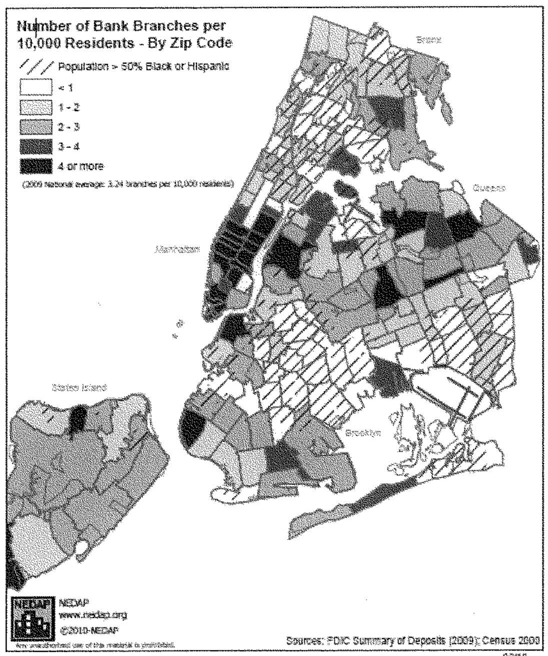
The reasons are straightforward – most banks cannot offer these loans due to their legacy cost structure and AFS providers are limited in their ability to provide a consistent product because of differing states' regulations.

[17] Noninterest expense, less the amortization expense of intangible assets, as a percent of the sum of net interest income and noninterest income.
[18] http://www.bankofamerica.com/vehicle_and_personal_loans/index.cfm?template=overview
[19] https://online.citibank.com/US/JRS/pands/detail.do?ID=LLInstallmentLoan
[20] https://www.chase.com/ccp/index.jsp?pg_name=ccpmapp/individuals/home/page/pf
[21] http://www.usbank.com/loans-lines/unsecured/premier-loan.html
[22] https://www.wellsfargo.com/personal_credit/products/options/unsecured_loan

Also, banks have moved out of the neighborhoods on the low- to-moderate-income consumer as depicted in this map of the New York metro area[23].

Absence of Bank Branches in Communities of Color

New York City (2009)



A report[24] from The Financial Services Roundtable, *"The Compliance Function in Diversified Financial Institutions"*, dated July, 2007 is an excellent study in the analysis of the burden of sometimes conflicting regulations with unclear standards and expectations as well as lack of coordination among the agencies.

One excerpt clearly defines the issue:

[23] http://www.nedap.org/programs/documents/2009BankBranches.pdf
[24] http://www.fsround.org/publications/pdfs/ComplianceFunctioninDiversifiedFinancialInstitutions.pdf

> *Congress should consider moving toward a more productive form of federalism which properly balances state and federal interests.*
>
> *Uniform national standards and preemption of state laws should be considered in certain areas in order to allow financial services institutions to operate on an interstate basis without having to comply with multiple, conflicting laws. Any national standard enacted should ensure that consumers are adequately protected.*

Credit Unions have been touted as the vehicle to serve moderate income consumers. They still enjoy a tax advantage over commercial banks but increased compliance costs and lack of scale imperil their ability to adequately serve the consumer.

An article[25] in the Credit Union Times dated April 12, 2012 that recapped a meeting of the Credit Union Association of the Dakotas stated:

> "...at a Sioux Falls roundtable, a string of top managers from South Dakota credit unions and small banks complained that the 'mountain of new regulations-18,000 pages over the past three years - coming out of Washington D.C.' is driving numerous mergers of smaller institutions unable to bear the cost.
>
> "'During 2011 we saw five credit unions--almost 10% of the total-- involved in mergers and in each of the five mergers, management and volunteers cited regulatory burden as a primary reason to merge,' declared Schmidt who also serves as the state's chairman of CUAD's Governmental Affairs Committee.
>
> "'I am sure that it isn't a shock to you Mr. Cordray or anyone else at the CFPB that credit unions are subject to substantially more regulation now than just a few years ago but what I think might surprise you is that of the 46 credit unions left in South Dakota, 24--more than half--have six employees or less,' said Schmidt. 'The wave of new regulations has overwhelmed the staffs of these small credit unions prompting them to look for mergers,' he said."

While there is a place for low-dollar, short-term loans, the missing link are those personal, unsecured loans up to $5,000 with a term up to 36 months and monthly payments at a reasonable rate. Since most banks are not offering these loans, alternative financial service providers are filling the gap based on individual state regulations.

There is an opportunity either through strategic alliances or through vertical integration, for AFS companies to become a one stop shop for the financial services needs of underbanked and debanked consumers. Bretton Woods recommends that options be reviewed to provide better access to installment loan credit.

Role of Technology

Financial intermediaries act as the proverbial "middleman" by bringing together those with surplus funds who want to lend and those with a shortage of funds who want to borrow.

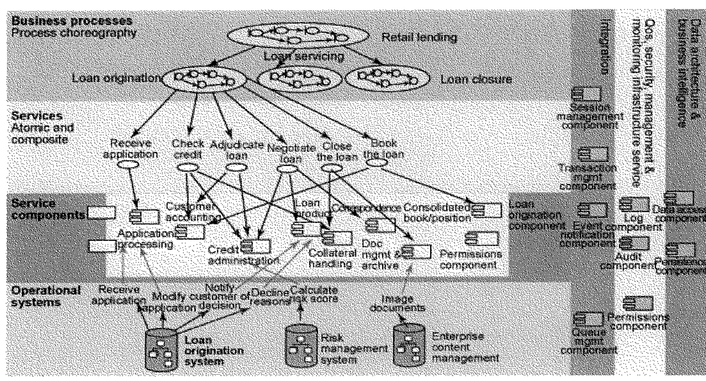
[25] http://www.cutimes.com/2012/04/12/dakota-credit-unions-air-compliance-gripes-at-spec?ref=hp

The bank, with its physical presence, provided a safe and secure facility for the deposit of funds as well as the knowledge of risk management to underwrite credit applications from those in need of loans. Banks also serviced these loans by processing payments and collecting delinquent accounts.

The risks to this model are new enabling technologies. That is, the ability to match those with funds to those in need of credit. There are a number of fledgling entrants into this ecommerce space and the growth and acceptance of peer-to-peer lending will very much depend on the positive (or lack thereof) experience of the participants.

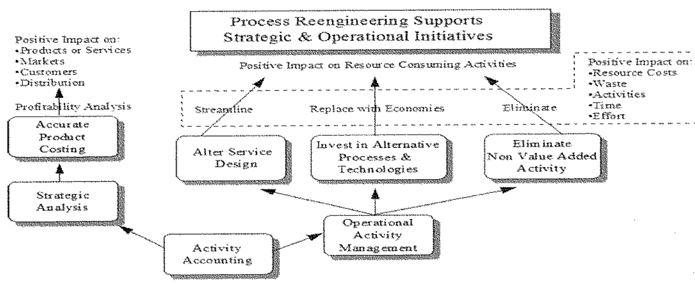
For the traditional banking system to succeed, it must embrace these new technologies. However, embedded processes, legacy technologies and cultural inertia can dramatically slow adoption.

A typical consumer loan origination process can look like the following[26]:



Any familiarity with Six Sigma or Lean Process methodologies allows one to visualize a process flow and identify tasks and activities that either do not add value or can be automated for efficiency.

[26] http://www.ibm.com/developerworks/websphere/techjournal/0809_col_simmons/0809_col_simmons.html



New technologies can significantly simplify the process and eliminate many human interventions.

Alternative Financial Service providers are typically not hampered with these constraints. An equally important issue is the industry's knowledge and understanding of its clients and its culture to provide service that a typical bank does not support. This is represented in a study [27] by the Kansas City Fed, *"A Study of the Unbanked & Underbanked Consumer in the Tenth Federal Reserve District"* dated May 2010:

> "...Participants reported turning to retailers before banks due to simpler identification requirement, more transparent pricing, no hidden fees or penalties and immediate funds availability..."

Another study[28], *"Public Policies to Alter the Use of Alternative Financial Services among Low-Income households"* by Rebecca M. Blank, University of Michigan and Brookings Institution in March 2008 stated:

"Formal financial institutions provide services that are ill-fitted to the financial needs of low-income households. About 40 percent of payday loan recipients have bank accounts, suggesting that their payday loan provides a service that is not available from their bank (Elliehausen and Lawrence, 2001). About half of payday loan recipients claim to have considered a bank loan; many of these said that the payday loan involved an easier process; some also cited the convenient location of payday providers. Short-term loans to lower-income customers are simply not available through many local banks..."

[27] http://www.fdic.gov/about/comein/KCfed.pdf
[28] http://www.brookings.edu/~/media/Files/rc/papers/2008/0416_low_income_blank/0416_low_income_blank.pdf

The Future

Consumer financial services are clearly at a crossroad. Traditional banks have marginalized the low- to-moderate-income consumer and the myriad of state regulations inhibit alternative financial service providers to offer a standard product, achieve scale and reduce costs by operating in all 50 states in a consistent manner.

Studies of the impact of restrictive regulation at a local or regional level repeatedly show these regulations limit options and increase costs to the consumer. For example, a research report, *"The Economic Impact of Eliminating Preemption of State Consumer Protection Laws"*, from the JOURNAL OF BUSINESS LAW, 2009[29] states:

- Preemption generates many clear economic benefits for banks and their customers.
- Uniform national laws, and the court and regulatory determinations pursuant to them, have been used as a device to open markets, thwart state-sponsored protectionist measures, reduce the price of credit, increase the availability of credit, and increase the efficiency of national banks. Consumers, small businesses, and the U.S. economy have been the ultimate beneficiaries.
- Critics of preemption are misguided in their attempts to link instances of predatory lending associated with the subprime crisis to federal preemption of state consumer protection laws. The vast majority of subprime loans at issue were originated by finance companies that have been outside of the purview of federal bank regulation but subject to state financial regulation. Concerns that preemption risks the dissolution of the dual banking system are also misguided.
- Case studies from the U.S. wireless and wine industries provide empirical evidence that the imposition of uniform, national regulations for interstate commerce increases economic efficiency. The implication is that any business, including banking, that crosses state boundaries should be regulated at the national level.
- From a policy perspective, elimination of preemption would jeopardize the significant economic benefits created by a uniform regulatory environment. However, preemption does not imply a laissez faire approach to regulation of the financial industry: advocating for preemption is not the same as advocating for deregulation. Policymakers should create new federal rules for the problem areas while taking advantage of the gains uniform national standards can offer the lending industry and the economy.

Bretton Woods believes that a new banking model for the low- to-moderate-income consumer must be built to better serve this community. Some community banks may be able to restructure their costs and offer solutions for this market but that is only possible with management making a commitment and possibly foregoing more profitable products and services. Many alternative financial services providers are narrowly focused on a few products and do not operate on a national level. AFS providers have built a more cost effective business model and may serve as a foundation for a new consumer banking model.

[29] http://www.aba.com/NR/rdonlyres/71949FE8-BA04-40B8-BC61-AF9F612C679A/63659/Preemption_finalv1.pdf

Exhibit I – AFS Regulators

Small Loans

Regulated Negotiated Rate States	Rate Per $100 States Add-on Interest	Band-Based States	Credit Code Or "Insurance States"	Payday States	Loan Shark/Unlicensed
Characteristics					
For small loans (<$2,ooo) no state imposed interest rate caps	X% per $100 per year Ancillary products prohibited	"What you see is what you get" Generally, ancillary products prohibited "If X is the loan amount, then you pay Y per month"	Flat rate of X% per month plus ancillary products (e.g. insurance) Requires sale of ancillary products to achieve break-even or better	Rate limits unrealistic for small loans which results in no installment lending Only alternatives are payday, pawn or loan sharks	Rate limits are unrealistic for small loans which results in no installment lending Payday lending prohibited Loan sharks or unlicensed internet lending are only alternatives for small loans
Delaware	Hawaii (Discount)	Alabama	Alaska	Arizona	Arkansas
Idaho	Pennsylvania (Discount)	Colorado	Florida	California	Connecticut (Discount)
Illinois	Texas (Add-on)	Oklahoma	Georgia	Washington, D.C.	North Carolina
Missouri		Tennessee	Iowa	Indiana	Ohio
Montana			Kentucky	Kansas	Oregon
Nevada			Louisiana	Massachusetts	
New Hampshire			Maine	Michigan	
New Jersey			Maryland	Nebraska	
New Mexico			Minnesota	New York	
North Dakota			Mississippi	Rhode Island	
South Carolina			Oklahoma	Vermont	
South Dakota			South Carolina	Virginia	
Utah			West Virginia	Washington	
Wisconsin			Wyoming		

http://www.afsaonline.org/state_government_affairs/sga_resources.cfm?shownewfldr=y&cid=2&fldrid=22&pfldrid=0

Payday Loans

State Legislation	Permitted Fees	Permitted Period	Maximum Amount of Advance	Rollovers	Mandated Cooling Off Period	Statutorily Mandated Extended Repayment Option	Database Requirement
Alabama AL ST § 5-18A-1 et seq.	17.5% of the amount advanced	Min. of 10 days and max. of 31 days	$500	Limited to one	Next business day after rollover is paid in full	[illegible]	[illegible]
Alaska AK ST § 06.50.010 et seq.	$15 per $100 advanced, plus max. of $5 nonrefundable origination fee	Min. of 14 days	$500	Limited to two	No	[illegible]	None
California CA FIN §23000 et seq.	15% of the face amount of the check	Max. of 31 days	$300 (max. amount of check)	Prohibited	None	[illegible]	None
Colorado CO ST §5-3.1-101 et seq.	[illegible]	Min. of 6 months	$500	[illegible]	30 days	None	None
Delaware DE ST TI 5 §2227 et seq.	Rate of loan determined by parties	Max. of 59 days	$500	Limited to four	None	Permits borrower to enter into a workout agreement following no more than 4 rollovers	None
Florida FL ST §560.402 et seq.	10% of the amount of advance + max. $5 verification fee	Min. of 7 days and max. of 31 days	$500	Prohibited	24 hours	[illegible]	Industry-wide database
Hawaii HI ST §480F-1 et seq.	15% of the face amount of the check	Max. of 32 days	$600 (including fee)	Prohibited	None	None	None
Idaho ID ST §28-46-401 et seq.	Rate of loan determined by parties	Term of loan determined by parties	$1,000	Limited to three	None	None	None
*Illinois 815 ILCS 122/1-1 et seq.	$15.50 per $100 loaned	Min. of 13 days and max. of 45 days	$1,000 or 25% of the consumer's gross monthly income, whichever is less	Prohibited	[illegible]	[illegible]	Industry-wide database
Indiana IN ST 24-4.5-7-101 et seq.	15% on first $250 of the principal; 13% on amount greater than $250 up to and including $400; 10% on amount greater than $400 up to and including $550	Min. of 14 days	[illegible]	[illegible]	7 days after 5th consecutive loan is paid in full	[illegible]	Regulator instituted, mandatory 3rd party database
Iowa IA ST § 533D.1 et seq.	15% of the check on 1st $100; 10% on subsequent $100 increments	Max. of 31 days	$500 (max. amount of check)	Prohibited	[illegible]	None	None
Kansas KS ST §16a-2-404 et seq.	15% of the amount of cash advance	Min. of 7 days and max. of 30 days	$500	Prohibited	None	None	None
**Kentucky KY ST §286.9-010 et seq.	$15 per $100 on face amount of check	Min. of 14 days and max. of 60 days	$500 max. loan proceeds per customer industry wide (no more than 2 loan transactions)	Prohibited	None	None	Industry-wide database
Louisiana LA R.S. 9:3578.1 et seq.	[illegible]	Max. of 30 days	$350	[illegible]	None	None	None
Michigan M.C.L.S. 487.2121 et seq.	[illegible]	Max. of 31 days	$600	Prohibited	None	[illegible]	Industry-wide database
Minnesota MN ST §47.60	[illegible]	Max. of 30 days	$350	Prohibited	None	None	None
Mississippi [illegible] MS ST §75-67-519	18% of the face amount of the check	Max. of 30 days	$400 (max. amt. of the check)	Prohibited	None	None	None
Mississippi [illegible] MS ST §75-67-519	[illegible]	[illegible]	$500, including fees	Prohibited	None	None	None
Missouri MO ST 408.500 et seq.	Total fees, including rollovers, cannot exceed 75% of initial loan amount	Min. of 14 days and max. of 31 days	$500 (max. amount outstanding to the lender)	[illegible]	None	None	None
Nebraska NE ST §45-901 et seq.	$15 per $100 on face amount of check	Max. of 34 days	$500	Prohibited	Same day transaction with same lender not allowed unless lender can verify that prior loan was completed	None	None

State Legislation	Permitted Fees	Permitted Period	Maximum Amount of Advance	Rollovers	Mandated Cooling Off Period	Statutorily Mandated Extended Repayment Option	Database Requirement
Wisconsin W.S.A. 138.14	Rate of loan determined by parties	Term of loan determined by parties	$1,500 or 35% of borrower's gross monthly income, which is lower. (Inclusive of loans from more than 1 lender)	Limited to one	24 hours	At the end of the loan term, lender must offer the customer the opportunity to repay the outstanding balance of the loan in 4 equal installments with due dates coinciding with the customer's pay period schedule.	Industry-wide database
Wyoming WY ST §40-14-362 et seq.	greater of $30 or 20% per month on the principal balance of the check	One calendar month	No statutory cap	Prohibited	None	None	None

Check Cashing

STATE	STATUTORY CITATION	PERMISSIBLE CHECK CASHING FEES: Public Assistance/Social Security Checks/Other Government-Issued Checks	Personal	Payroll/Other Checks	Statutorily Authorized Account Set-up/Membership Fee	LICENSE OR REGISTRATION REQUIRED	NOTABLE EXEMPTIONS TO REGULATION
Arizona	[illegible]	[illegible]	No cap.		None.	A license or registration are not required.	[illegible]
California	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	A permit is required.	[illegible]
Connecticut	[illegible]	[illegible]	2% or $1, whichever is greater.		None.	A license is required.	[illegible]
Delaware	[illegible]	2%, or $4, whichever is greater, for cashing a check, draft or money order.			None.	A license is required.	[illegible]
Florida	[illegible]	[illegible]	[illegible]	[illegible]	None.	A license is required.	[illegible]
Georgia	[illegible]	[illegible]	[illegible]	[illegible]	None.	A license is required.	[illegible]
Hawaii	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	A license or registration is not required.	[illegible]
Illinois	[illegible]	[illegible]	[illegible]	[illegible]	None.	A license is required.	[illegible]
Indiana	[illegible]	[illegible]	[illegible]	[illegible]	None.	A license is required.	[illegible]
Kentucky	[illegible]	No cap; licensees must conspicuously display a schedule of all fees and charges for authorized services.			None.	A license is required.	[illegible]
Louisiana	[illegible]	[illegible]	[illegible]		None.	[illegible]	[illegible]
Maine	[illegible]	[illegible]	[illegible]	[illegible]	None.	Registration is required.	[illegible]
Maryland	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	A license is required.	[illegible]
Massachusetts	[illegible]	[illegible]			None.	A license is required.	[illegible]
Minnesota	[illegible]	[illegible]			None.	[illegible]	[illegible]
Mississippi	[illegible]	[illegible]	[illegible]	[illegible]	None.	A license is required.	[illegible]

[illegible]	[illegible]	[illegible]				[illegible]	[illegible]
		[illegible]	[illegible]	[illegible]	[illegible]		
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]				[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]			[illegible]	[illegible]	[illegible]

Exhibit II – Minimum Loan Calculator

Direct Variable Costs	Loan Officer *	Underwriter**	Processing***	Servicing****	Pull Through Rate *****			Total Other Costs
Productivity	75%	75%	75%	75%				
Salaries	$ 45.35	$ 33.34	$ 28.24	$ 26.81				$ 133.75
Applications Not Funded					49.25%			$ 65.87
TOTAL COSTS								$ 199.61
Net Interest Margin (Banks < $1 billion 12/31/2011) FDIC								3.90%
	Minimum loan amount to break even							$ 5,118.33

* Consumer Loan Officer I — $ 56,490.00 median salary plus 25% benefits = $ 34.01 cost per hour.
http://www.bls.gov/oes/current/oes132072.htm — Assumes 1 hour per loan at 100% productivity

** Consumer Loan Underwriter — $ 41,533.00 median salary plus 25% benefits = $ 25.01 cost per hour.
http://www1.salary.com/Consumer-Credit-Analyst-I-Salary.html — Assumes 1 hour per loan at 100% productivity

*** Consumer Loan Processor — $ 35,180.00 median salary plus 25% benefits = $ 21.18 cost per hour.
http://www.bls.gov/oes/current/oes_nat.htm#13-0000 — Assumes 1 hour per loan at 100% productivity

**** Consumer Loan Servicing — $ 33,390.00 median salary plus 25% benefits = $ 20.10 cost per hour.
http://www1.salary.com/Accounts-Receivable-Clerk-salary.html — ($33,390 X 1.25)/2353= $ 17.14

*******Pull through rate**
50.75% of all applications did not result in a closed loan although the time and costs of the loan officer and underwriter are still incurred

Notes:
The 2007 Cornerstone Report = Median 9 consumer loans originated per loan consumer loan officer per month, 93 consumer loans underwritten per loan consumer loan underwriter per month and 145 consumer loan applications processed per comusmer loan processing FTE per month. Use of these benchmarks
2007 Cornerstone Benchmark Analysis = 2,353 consumer loans serviced per servicing FTE

For Release Upon Delivery

10:00 a.m., July 24, 2012

TESTIMONY

of

GROVETTA GARDINEER

DEPUTY COMPTROLLER FOR COMPLIANCE POLICY

OFFICE OF THE COMPTROLLER OF THE CURRENCY

Before the

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

July 24, 2012

Chairman Capito, Ranking Member Maloney, and members of the Subcommittee, I appreciate the opportunity to appear before the Subcommittee on Financial Institutions and Consumer Credit to discuss the Office of the Comptroller of the Currency's (OCC) perspectives on H.R. 6139 "The Consumer Credit, Access, Innovation, and Modernization Act" (hereinafter referred to as H.R. 6139 or "the bill"). The OCC recognizes the importance of providing underserved consumers greater access to innovative and affordable financial products and services, and through many routes we encourage national banks and federal savings associations to do just that. However, we are concerned that H.R. 6139 would hurt the very population of consumers that it seeks to assist, and would encourage the development of businesses with unsafe and unsound concentrations in financial products and services that have serious consumer protection, compliance, safety and soundness, and other risks including Bank Secrecy Act and Anti-Money Laundering (BSA/AML) concerns.

The effective result of H.R. 6139 would be to create a class of federally chartered companies (National Consumer Credit Corporations, hereinafter referred to as "NCCCs" or "companies") focused on consumer credit products of the very nature and character that the OCC has found unacceptable based on consumer protection and safety and soundness concerns. In particular, it is our experience that the profitability of many of the types of small dollar, short-term loans that NCCCs would likely seek to offer is dependent on effectively trapping consumers into a cycle of repeat credit transactions, high fees, and unsustainable debt.[1] Other products that can help provide broader access to payment systems that NCCCs might offer, such as prepaid access cards, can raise other concerns regarding the management of money laundering risks and require extensive and costly oversight, as the Financial Crimes Enforcement Network (FinCen)

[1] See also Uriah King and Ozlem Tanik, "Financial Quicksand: Payday lending sinks borrowers in debt with $4.2 billion in predatory fees every year," Center for Responsible Lending, November 30, 2006.

highlighted when it issued rules to address this concern. Yet, recognizing these significant compliance and safety and soundness concerns, H.R. 6139 would generally compel the OCC to approve an NCCC's proposed products or services within 45 days unless the OCC determines that the products or services would significantly harm the interests of underserved consumers or small businesses. This essentially requires the OCC to prove a negative consequence, based on proposed activities not yet conducted, against a backdrop where the OCC's experience teaches that the activities are harmful to consumers, risky, and in some respects, a brew for BSA/AML problems.

A key premise of H.R. 6139 is that high compliance and regulatory costs significantly impede firms' ability to offer small dollar credit products in a profitable and efficient manner, and that a federally issued charter would significantly lower such costs. The implied premise, however, is that those lower costs will result from lower compliance <u>expectations</u> applicable to an NCCC.

We disagree with this premise. The bill will result in a decrease in protections for categories of consumers that may be the most vulnerable. We have ample evidence from the recent financial crisis that the goal of enhanced access to financial products and services must be coupled with assurances that those consumers are subject to meaningful consumer protections and that the firms offering those products and services must do so on a prudent, safe, and sound basis. In this regard, the Consumer Financial Protection Bureau (CFPB) has been provided the authority to issue rigorous, uniform, and nationally-applicable consumer protection standards for financial products and services. It is important that the types of products envisioned for NCCCs not be carved out of coverage of CFPB-administered lending standards. My testimony provides a brief overview of H.R. 6139 and then more fully describes the OCC's key concerns about the bill and the potential negative effect it could have on consumers and on the efforts that the OCC and other federal and state agencies have taken to safeguard consumers from lending products with predatory features.

Overview of H.R. 6139

H.R. 6139 would require the OCC to provide a federal charter to non-depository creditors (companies chartered or licensed by a state and engaged in offering consumer and small business loans). The charter application would be reviewed and approved by the OCC pursuant to procedures established by regulation. Section 3 establishes general eligibility criteria for a company to be chartered as an NCCC, such as having adequate capital structure relative to the business plans of the company, and it provides that such criteria may be supplemented by additional criteria established by OCC regulation. Section (3)(c) of the bill permits an applicant to be owned or controlled by other entities, including depository institutions, bank holding companies, nonprofits, and consumer financial services businesses.

Under H.R. 6139, an NCCC would be permitted to enter into joint ventures and partnerships with other NCCCs, as well as with depository institutions, third-party vendors, and other parties to promote or facilitate providing its financial products and services. Section 3(e) provides that the OCC shall "encourage and facilitate" such joint ventures (without specifying any safety and soundness or consumer protection criteria).

In addition to chartering authority, section 3(e)(1) of the bill would require the OCC to conduct examinations and supervise NCCCs to assess their internal controls; evaluate their financial condition; determine if they are meeting the needs of underserved consumers and small businesses; and monitor compliance with the requirements of the bill and all other applicable laws and regulations. In conducting its supervision of NCCCs, the OCC would also be required to consult and coordinate with other federal and state agencies to ensure that supervisory activities, including examination schedules, are conducted in a coordinated and efficient manner.

Section 3(e)(2) of the bill would require NCCCs to, among other things, make financial education information adopted by the OCC available to its customers; provide certain cost disclosures for loans of one year or less that section 5 of the bill would exempt from the Truth in Lending Act (TILA); and offer underserved consumers who are not meeting the payments on an extension of credit by an NCCC with a term of less than 120 days, an extended loan repayment plan. An NCCC would be prohibited from accepting deposits; making commercial loans except for certain small business loans not in excess of $25,000; making consumer loans with a term less than 30 days; and intentionally extending credit in certain circumstances, including when the maximum principal amount of all credit outstanding extended by such NCCC to the consumer exceeds $5,000 (or $25,000 in the case of a secured credit transaction).

The primary business of an NCCC would be to offer products and services approved by the OCC. The OCC would receive a description of any products or services proposed by an NCCC, including how the product will help meet the credit needs of underserved consumers or small businesses and be commercially viable (which the bill defines as expected to produce a reasonable economic profit). Under section 3(f)(2), the OCC would be required to prescribe regulations with procedures for the review and approval of such proposals, but the procedures may not include disapproval or conditional approval of a financial service or product unless the OCC determines that offering the product or service will significantly harm the interests of underserved consumers or small businesses. A proposal will be deemed to be approved if the OCC has not notified an NCCC of its decision within 45 business days after submission. The bill further provides that any such products or services approved by the OCC for underserved consumers and small businesses may be offered to other consumers and small businesses. Section 3(g) would provide for the payment to the OCC of annual fees to offset the cost of carrying out the provisions of the bill.

OCC Concerns with H.R. 6139

The OCC's fundamental concern is that H.R. 6139 would provide special status and federal benefits to companies and third-party vendors that would primarily engage in offering credit products and services that the OCC has previously found to be unsafe and unsound and unfair to consumers. These include payday loans, tax refund anticipation loans (RALs), and automobile title loans. Our supervisory experience with these products is that they are based on a business model that is not sustainable from the perspective of low and moderate income customers—high fees, repetitive use, high defaults, and severely weak legal compliance. Indeed, the very products and services this bill is designed to encourage often result in significant abuses, and, in fact, the OCC took enforcement action related to one of the proponents of this bill (Cash America) for such abuses.[2]

Against this experience, we are concerned that H.R. 6139 would negate many actions that Congress, the OCC, and other federal and state agencies and supervisors have taken to safeguard consumers from the risks products of this nature present to consumers. For example, based on a Department of Defense study of predatory lending affecting service members, their dependents, and military readiness, Congress (in the John Warner National Defense Authorization Act, P.L. 109-364) restricted the costs and terms of certain abusive credit products offered to members of the military and their dependents. It is unclear whether or how H.R. 6139's prohibitions on establishing usury caps or limits would affect this important protection provided to our nations' service members.

[2] See http://www.occ.gov/static/enforcement-actions/ea2003-1.pdf.

By requiring the OCC to charter NCCCs that present business plans that meet certain chartering criteria, and to approve products or services that such companies would offer unless the OCC makes an express determination that such product or service will significantly harm the interests of underserved consumers or small businesses, H.R. 6139 would undermine steps the OCC has taken over the past ten years to address significant consumer protection issues, BSA/AML, and safety and soundness risks that many of these products pose. For example, H.R. 6139 directs the OCC to encourage and facilitate joint ventures between NCCCs and third-party service providers and vendors to help facilitate innovative products and services. Through our supervisory and examination processes, we have found that financial institutions that have partnered with third-party providers to originate or deliver such products and services can encounter serious risks because of the failure of vendors to adequately control and manage their business operations. The Comptroller has recently singled out third-party oversight as a significant contributor to the operational risks facing financial institutions.

More generally, through a combination of guidance and strong enforcement actions, the OCC has acted to severely limit payday lending, RALs, and similar activity within the institutions we regulate. The OCC has also taken steps to deter and prevent third-party firms from promoting and peddling such products by relying upon the use of a national bank charter through a business arrangement with a national bank or federal savings association.

Specifically, the OCC was the first federal banking agency to issue comprehensive anti-predatory lending standards. In 2000, we issued advisories on payday loans, title loans, and abusive lending practices designed to prevent national banks and their subsidiaries from engaging in lending practices that were unfair and deceptive.[3] Between 2001 and 2003, the OCC

[3] See "AL 2000-7" (http://www.occ.gov/static/news-issuances/memos-advisory-letters/2000/advisory-letter-2000-7.pdf), "AL 2000-10" (http://www.occ.gov/static/news-issuances/memos-advisory-letters/2000/advisory-letter-

also took decisive enforcement actions against a variety of banks and affiliated service providers (*i.e.*, Cash America, Advance America, ACE, Dollar Financial) for unsafe and unsound lending practices and violations of laws, including violations of the Federal Trade Commission Act and TILA.[4]

In 2010, the OCC acted to severely curtail the sale and marketing of RALs among national banks because of the consumer protection and safety and soundness risks arising from the product's unique repayment and cost structures, and because of the banks' reliance on third-party tax return preparers to offer them.[5] We are concerned that H.R. 6139 would permit—and encourage—insured depository institutions to re-establish such affiliations through NCCCs that the OCC would be charged with approving.

In addition to consumer compliance and protection issues, we believe the narrowly focused charters and the types of products NCCCs would offer raise serious potential safety and soundness concerns. H.R. 6139 would allow and encourage NCCCs not affiliated with insured depository institutions to form affiliations with third-party vendors. As previously noted, our experience suggests that such vendors often lack the requisite systems and procedures to comply with the myriad of BSA/AML and other regulations and risk management practices that are essential to the safe and sound conduct of these activities. We believe NCCCs would face significant BSA/AML exposure resulting from their dependence on products with remote deposit capture characteristics and lack direct customer contact and traditional long-term customer relationships, such as prepaid cards, internet-offered products and money transfer services.

2000-10.pdf), and "AL 2000-11" (http://www.occ.gov/static/news-issuances/memos-advisory-letters/2000/advisory-letter-2000-11.pdf).

[4] See enforcement action 2003-1 against First National Bank in Brookings (http://www.occ.gov/static/enforcement-actions/ea2003-1.pdf), enforcement action 2003-2 against Peoples National Bank (http://www.occ.gov/static/enforcement-actions/ea2003-2.pdf), enforcement action 2002-93 against Goleta National Bank (http://www.occ.gov/static/enforcement-actions/ea2002-93.pdf), and enforcement action 2001-104 against Eagle National Bank (http://www.occ.gov/static/enforcement-actions/ea2001-104.pdf).

[5] See "OCC 2010-7" (http://www.occ.gov/news-issuances/bulletins/2010/bulletin-2010-7.html).

Information and transparency is vital to the proper management of BSA/AML risk. Our supervisory experience also indicates that companies with limited business focus and product lines face significant concentration risks that can threaten their viability if underlying business conditions in their market area deteriorate or change (for example, the closing of a nearby military base). These risks are magnified for firms that lack a stable funding base and are dependent on non-deposit wholesale funding. We believe that NCCCs created under H.R. 6139 would be highly susceptible to these risks.

We are also concerned that H.R. 6139 could blur authorities and responsibilities for the OCC and the CFPB and create additional confusion for consumers. For example, companies chartered under the bill would be required to provide to their customers any financial education information that is adopted by the OCC. While we endorse efforts to improve financial literacy, this is an area where Congress has given the CFPB broad authority. Similarly, H.R. 6139 would exempt from the requirements of TILA—which the CFPB implements—loans with terms of one year or less if the creditor has provided the borrower with a clear and conspicuous statement in the loan agreement of the cost of the loan expressed as a total dollar amount and as a percentage of the principal amount of the loan. This exemption would apply not only to NCCCs but also to any other creditor making these loans. We are concerned that this provision would exempt short-term loans from important TILA protections and disclosures that currently apply, such as the APR and finance charge; would substitute a different disclosure standard that would not allow consumers to compare costs with credit products subject to TILA; and would thereby mask the potentially high APRs of the categories of short-term loans to be offered by NCCCs, such as payday loans and RALs. A recent study released by the Pew Chartitable Trusts Small Dollar

Research Project noted the difficulty consumers may have in trying to compare a product where the rate is quoted as a simple interest rate with one where the rate is expressed as APR.[6]

Finally, we are concerned that the standard H.R. 6139 imposes of "significant harm to the interests of underserved consumers or small businesses" in order for the OCC to deny a proposed product or service would be difficult to implement, and could face challenges. Assessing potential harm or benefit to an individual or even class of consumer would be very fact specific, take a significant amount of time, and could vary over time depending on a consumer's situation and available product alternatives.

As previously noted, a key motivation for establishing a national charter for credit corporations appears to be the benefits that uniform regulations could provide to such firms. We believe the creation of the CFPB already provides an avenue for achieving this objective without creating a new class of federally chartered financial institutions. Congress has given the CFPB regulatory authority to adopt standards related to consumer products and services offered in the marketplace, without regard to whether they are offered by banks, nonbanks, or state- or federally supervised institutions. Further, the CFPB has general authority to supervise and regulate nonbank lenders, including payday lenders and "large nonbank participants" in consumer credit and services, and will be conducting examinations of such companies. The sponsors of H.R. 6139 may want to consider discussing with the CFPB how its existing regulatory and supervisory authority can be used to achieve the goals of the bill.

We also note that Congress has previously assigned to the Treasury Department the task of developing programs for small-dollar loans that would serve as alternatives to costlier small-dollar loans, and Section 1025 of the Dodd-Frank Act authorizes the Secretary of the Treasury to

[6] "Payday Lending in America: Who Borrows, Where They Borrow, and Why," the Pew Charitable Trusts Small-Dollar Research Project. p. 17.

establish demonstration programs for this purpose. The OCC believes such programs would provide a valuable mechanism for supervisors and industry participants to collaborate on innovative approaches to address the needs of underserved consumers and consumers who may have blemished or limited credit history and thus limited access to traditional credit products.

Conclusion

In summary, the OCC is concerned that H.R. 6139 could have a number of unintended and undesirable effects for the population that it is intended to benefit. In particular, H.R. 6139 raises serious consumer protection, compliance, and safety and soundness issues by creating a new federal charter for companies concentrating on products and services most prone to abuse and that are most often targeted to minority populations, low-income neighborhoods, and communities with high concentrations of our military service members. These are products and services that the OCC has largely extinguished from the national banking system, and we would not support, license, nor charter an institution concentrating in these services today. Furthermore, where these services are offered, state officials and the CFPB have adequate authority to regulate these products and services and the companies that provide them. The OCC shares the authors' goal of providing financial services to underserved communities and unbanked populations, and looks forward to working with members of the Subcommittee to achieve that goal.

STATEMENT BY

MARY JACKSON

BEFORE THE

HOUSE COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

Washington, DC

July 24, 2012

Thank you for this opportunity to submit my written statement as part of the record. I am pleased that the subcommittee is holding this hearing to consider legislation that would allow consumers more credit options.

As a tenured employee of Cash America International (NYSE:CSH), I've spent more than 20 years advocating for consumers who deserve an array of financial options. That is why I am here to express my support of H.R. 6139, the Consumer Credit Access, Innovation and Modernization Act, relating to a federal non-bank charter. This legislation will provide consumers with access to new, innovative financial products that are generally unavailable to them at traditional institutions such as banks and credit unions.

Cash America is an innovative, 28-year old company that offers specialty financial services in the United States and abroad. As a heavily regulated organization, we operate in 39 states and hold more than 4,100 licenses to offer unsecured and secured, non-recourse products, which include pawn loans, installment loans, lines of credit, cash advance loans, auto equity loans, gold buying, check cashing, money orders/transfers, bill pay and prepaid debit cards. These services offer viable options for hard-working

Americans who need and want access to credit. We desire to offer more options to consumers, but unfortunately, we are restricted. There is a disconnect between the speed of product innovation by the private sector and the outdated state laws currently set up to govern those products.

The demand for affordable credit is significant and growing, while available credit alternatives are shrinking. A federal non-bank charter would take the industry from varying laws in 50 states to one overriding solution. The state-by-state model is utterly ineffective. The patchwork of credit products currently available by state means we can't offer the same choices to consumers with identical financial needs because they are separated by nothing more than a state line.

Under the charter, American consumers living in different states would have access to the same products. The charter would also allow consumers longer loan terms of 60, 90 even 120 days to one year to repay their loans, which can be designed to pay down the principal balance over the term of the loan. This is important considering that a recent study by the National Bureau of Economic Research revealed that almost half of American consumers can't even come up with $2,000 in 30 days to meet an emergency. The financial products gap is real and getting wider. Options are dwindling and there's nothing there to replace them. We have to begin to articulate a nationwide approach and put a plan into action. That's what we believe is outlined in the Consumer Credit Access, Innovation and Modernization Act.

In closing, let's not marginalize non-bank lenders into a category of financial services that can be deemed as "alternative." We're becoming more mainstream and we need avenues to continue serving consumers with more options. We encourage you to support a non-bank charter– not just because we're asking, but because of customers like Elizabeth from Ohio who wrote us saying: *"For people who can't get bank loans, small loans are the only option."*

As an advocate for consumers, I urge the committee to consider H.R. 6139. The legislation would provide a single solution to meet the needs of all Americans and ensure sustainable access to credit for them for years to come.

TESTIMONY OF

JOHN MUNN

DIRECTOR OF BANKING AND FINANCE

NEBRASKA DEPARTMENT OF BANKING AND FINANCE

On behalf of the

CONFERENCE OF STATE BANK SUPERVISORS

On

"EXAMINING CONSUMER CREDIT ACCESS CONCERNS, NEW PRODUCTS AND FEDERAL REGULATIONS"

Before the

FINANCIAL INSTITUTIONS AND CONSUMER CREDIT SUBCOMMITTEE

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

Tuesday, July 24, 2012, 10:00 a.m.

Room 2128 Rayburn House Office Building

INTRODUCTION

Good morning, Chairman Capito, Ranking Member Maloney, and distinguished Members of the Subcommittee. My name is John Munn, and I serve as the Director of the Nebraska Department of Banking and Finance.

It is my pleasure to testify before you today on behalf of CSBS. CSBS is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. State banking regulators supervise over 5,400 state-chartered banks. Further, most state banking departments also regulate a variety of non-bank financial services providers, including payday lenders, check cashers, money services businesses, and mortgage lenders. In my state of Nebraska, my department is responsible for regulating state-chartered banks and trust companies, state-chartered credit unions and savings and loans, mortgage lenders, consumer lenders, sale of check and funds transmissions, and delayed deposit services and payday lenders.

I thank you, Chairman Capito, and the Members of the Subcommittee, for holding this hearing on consumer credit and proposals to federalize the provision of short-term consumer credit and related non-bank financial services. State regulators play a central role in overseeing the non-depository consumer credit industries, and we appreciate the opportunity to be part of this important discussion.

In my testimony, I will provide our views on H.R. 1909 and H.R. 6139, both of which propose to create a federal charter for consumer credit companies, and I will provide an overview of state supervision of non-depository, non-mortgage financial services providers.

STATE REGULATORS' CONCERNS ABOUT A FEDERAL CONSUMER FINANCE COMPANY CHARTER

I applaud the efforts of Representatives Baca, Luetkemeyer, and their colleagues to make financial services and products available for unbanked and underbanked consumers. While we recognize that providing under-banked and unbanked individuals with access to financial services and products is an important objective, we have significant concerns about H.R. 1909 and H.R. 6139 because both bills:

- Establish an option for a federal business charter without meeting the necessarily high thresholds that Congress has traditionally required for receiving such a benefit;
- Circumvent the states' ability to establish and enforce laws governing the provision of financial services to their citizens; and
- Undermine the carefully structured state-federal balance in financial services regulation.

Federal Charters Should Only Be Granted in Very Limited Circumstances

Historically, Congress has created federal charters only in highly limited circumstances. This reflects the delicate balance assigned to the Congress by the Constitution: Congress has the power to regulate Commerce among the states, but powers not delegated to Congress by the Constitution are reserved to the states.

In this context, providing the federal government the authority to issue charters with a benefit beyond mere incorporation is the result of a Congressional determination that federal government involvement was needed to meet compelling public purposes. For instance, the National Currency Act, subsequently renamed the National Banking Act, addressed the need for a single national currency to finance the Civil War after the Legal Tender Act failed to garner the public's confidence. To do so, nationally chartered banks were permitted to issue notes backed by the federal government. Similarly, federal thrift charters permitted savings and loans access to the Federal Home Loan Bank System, which provided a government-backed mechanism to address a nationwide lack of long term credit availability for housing during the Great Depression.

In both instances, Congress developed a program with specific government-backed products to address a particularized federal interest, a construct that is absent in H.R. 1909 and H.R. 6139. In contrast to these situations, the vast majority of industries and businesses -- large and small -- in the United States thrives and meets important consumer needs very successfully without a federal charter.

State regulators share Congress's concerns regarding under banked consumers and pledge to work with Congress to address this important social and economic problem. However, H.R. 1909 and

H.R. 6139 falls short of the proper state-federal construct required to properly address this issue and do not meet the highly particularized circumstances where a federal charter is the appropriate policy solution.

H.R. 1909 and H.R. 6139 Circumvent State Authority

By creating a federal charter and preempting state licensing and consumer protection laws, H.R. 1909 and H.R. 6139 undermine states' authority to license and regulate a variety of non-bank financial services providers and eliminate the states' ability to protect their citizens and affect local credit markets.

The current legal structures governing the types of businesses covered by the two bills have long-standing foundations in state law. The citizens of the individual states, through their legislatures and other elected officials, have determined the contours of the financial services companies operating within their borders, the state regulatory regimes overseeing such businesses, and the consumer protection standards such companies must meet. The state laws that apply to payday lenders, check cashers, and the other non-bank entities in this legislation reflect policy decisions by the states about the benefits and costs of such products. These state laws are designed to limit the pitfalls of such financial products, while ensuring these products are available when and where needed.

In my home state of Nebraska, much of the state legal structure around deposit services and payday lenders was adopted in the early 1990's. At that time, our legislature made the decision to take this business out of realm of unregulated back alleys and loan sharks and to put it into licensed storefronts; in fact, the industry sought this move as a way of keeping bad actors out. The result of this action by state policy makers was that consumers would still be able to access these services and products, but with a greater level of consumer protection and greater accountability on the part of providers. In Nebraska, payday loans are limited to no more than $500, cannot exceed 34 days in loan term, cannot have fees in excess of $15 per $100, and borrowers are limited to no more than two outstanding loans at a time, with no rollovers. For calendar year 2010, Nebraska had approximately 115 licensed payday lenders; these companies, in the aggregate, reported total operating income exceeding $35 million, and net income of $7.5 million -- a 20% net return after taxes.[1]

The provisions of H.R. 6139 supporting and encouraging the use of the internet in this type of lending, when combined with the bill's elimination of state jurisdiction, raise particular concerns as it seems aimed at exchanging existing state oversight and consumer protections for enhanced business opportunities. Currently, some institutions operating online consider themselves beyond state lines and therefore not subject to local consumer protections. But the transactions and the potential for consumer harm remain very locally real. A long-distance loan without local protections is not good for the consumer. States vary in their approach to Internet lending. In my home state of Nebraska, internet payday transactions are not allowed. This reflects the response of policy makers in our state to the lack of accountability as to the party on the other side of the transaction and concerns about consumer protection, data security and privacy.

However, my colleagues in other states approve and license various non-depositories conducting both online and face-to-face transactions. Regardless of how the business is conducted, if it is state-licensed, the entity is subject to state consumer protection laws and state regulatory examinations. Our concern with H.R. 1909 and H.R. 6139, in particular, is that the bills encourage companies to offer financial products with no local accountability and encourages mass distribution through the Internet. My testimony discusses below the state-federal collaboration that Dodd-Frank established in creating the Consumer Financial Protection Bureau. The use of the Internet in delivering consumer financial products is one area where we see particular benefit in having a federal partner to address national issues in a manner that complements state oversight. In

[1] Nebraska Department of Banking and Finance, 2011 Annual Report at 39. http://www.ndbf.ne.gov/reports/2011-Annual-Report.pdf

contrast, H.R. 1909 and H.R. 6139 seek to provide a blanket endorsement of Internet-based lending while avoiding comprehensive regulation.

We urge Congress to consider carefully the implications of these bills. H.R. 1909 and H.R. 6139 would replace these locally-made decisions with a federal regime. Congress should not supplant state sovereignty lightly. The desire to help underserved consumers gain access to products and services should not be used as a cover to allow certain providers the opportunity to avoid compliance with laws that they believe run counter to their own profitability. With virtually no product limits included in the bill, it is hard to envision self-imposed provider controls creating a more affordable environment for the underserved.

Congress and the Courts have long taken the view that federal preemption of state law is the exception not the rule and that preemption is only warranted in very limited situations. Understanding local markets and business practices requires a strong presence in the community. Given the inherently local nature of single-transaction industries, it is managerially impossible to monitor safety and soundness and consumer compliance across the 50 States, District of Columbia, Puerto Rico, Guam, Northern Mariana Islands, and Virgin Islands. While consumer credit services expand to the Internet, the core transaction still occurs at a local level that requires local oversight. The Constitution established a federalist system to balance local and national priorities, and only a balanced state-federal regulatory regime can appropriately address a consumer's safety and access to credit.

Established and Productive State-Federal Regulatory Partnerships

The state law structures and processes governing financial services providers are complemented by federal partners. In banking, state regulators have well-established relationships with the federal banking agencies. In the non-bank arena, state regulators have worked with federal agencies including the Financial Crimes Enforcement Network ("FinCEN"), the Department of Housing and Urban Development, and, most recently, the CFPB. These state-federal partnerships leverage the benefits and strengths of each side of the relationship. The states bring to this partnership an on-the-ground perspective that comes from being in the communities that their regulated entities serve. States serve as the front line licensing and regulatory authority, ensuring that companies wishing to offer such services meet certain minimum requirements and comply with state and federal laws. The federal component brings to this state-federal partnership a national perspective that informs and reinforces, without supplanting, state authority.

This structure did not come about by accident. Federalism has always been the organizing principle of the U.S. government. Our nation's founders sought to create a system of self-rule that distributed power across the broadest possible base, with checks and balances that would prevent any individual person or government entity from exercising too much power.

Financial supervision has evolved in a way that reflects this federalist system of representation and laws. Rounds of financial system restructuring have granted new powers to the federal government and created new federal regulatory structures, but Congress has always been careful to respect the states' authority to issue charters and business licenses and to regulate financial services providers. During each round of major reform over the past 150 years, Congress has recognized that the states' authority to charter and supervise financial services providers is not merely tradition, but prudent necessity.

The participation of both state and federal agencies in financial services regulation has been a source of strength rather than weakness for the system, as it draws on two levels of resources and expertise. Because states are physically closer to the financial services providers they supervise and have more in-depth local knowledge of the areas these providers serve, state regulators can often identify potentially troublesome trends or practices before these issues bubble up to the federal level. If problems become systemic, the federal government is best poised to act in a manner that protects the economy on a national level.

A perfect case study of successful federalist supervision is the development, launch, and widespread implementation of the Nationwide Mortgage Licensing System and Registry ("NMLS," or the "System"). What initially started as a grass-roots effort to protect consumers in the absence of federal legislation or regulation evolved in a state-federal regulatory framework conceived and initiated by the states, implemented by Congress, and adopted by federal regulators.

Approximately 10 years ago, state regulators recognized the need to enhance supervision of the residential mortgage industry. To do so, state regulators, through CSBS and the American Association of Residential Mortgage Regulators (AARMR), developed and launched NMLS to establish a state-based, nationwide regulatory infrastructure that would license and track mortgage companies and brokers and allow for coordinated state supervision and a central repository for enforcement actions.

As the U.S. economy began to falter, Congress recognized the need for major mortgage market reforms, and passed the Housing and Economic Recovery Act in June 2008 to try to stabilize the market. Under the leadership of Chairman Bachus and other members of this Committee, that law included the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the "SAFE Act"), which requires all residential mortgage loan originators be either licensed or registered through NMLS. The SAFE Act also established a framework clarifying state and federal roles and a mechanism for state and federal coordination and information sharing.

Concerns about a "patchwork quilt" of state laws have been proven to be completely inaccurate. Within one year of passage of the SAFE Act, all 50 states had enacted laws to implement the mandates of the SAFE Act to build upon the existing state efforts to form a uniform and seamless system of mortgage supervision. The states embrace cooperative efforts, interstate agreements, and model standards to provide consistent supervision. But we also must maintain our sovereignty in order to respond quickly and decisively to protect consumers in our states when we identify concerns in our own jurisdictions.

State-federal collaboration in banking laws is well-established. The Financial Institutions Regulatory and Interest Rate Control Act of 1978 created the Federal Financial Institutions Examination Council (the "FFIEC") with state participation. Congress strengthened this participation in 2006 by adding a state regulator as a voting member of the FFIEC.

Most recently, the Dodd-Frank Act reaffirmed the importance of the dual-banking system and a federalist system of financial supervision. Just as in previous reform efforts, the dual-banking system emerged from the debate intact, thereby preserving a system of coordinated state-federal financial oversight. Whether it is the inclusion of state financial regulators in the Financial Stability Oversight Council, or various other provisions calling on federal regulators to coordinate and/or consult with state regulators, the current financial regulatory fabric includes state regulators as a critical component.

Members of Congress on both sides of the aisle and in both chambers made a conscious decision to leave in place existing state regulatory regimes across numerous areas including banking and non-bank financial services providers, such as those that would be affected by H.R. 1909 and H.R. 6139. Both bills run directly contrary to the goal of state-federal regulatory collaboration, as the effect of the bill will be to fundamentally undo the existing state-federal partnership, federalizing industries that have been largely within the jurisdiction of state regulators.

H.R. 1909 and H.R. 6139 Distort the Market

State regulators have a deep appreciation for the importance of diversity in the financial services industry. Our members' granular and practical perspectives on the financial credit markets in their states have led to a view that one size does not fit all when it comes to delivering financial services. States regulate a very diverse set of entities, ranging from $100 billion-plus banks serving national markets to locally-based small businesses offering consumer financial services. Both H.R. 1909 and H.R. 6139 could undermine this diversity by stratifying the industry and creating a regulatory regime that serves the interest of the larger participants in this market to the disadvantage of the smaller companies. Neither consumers nor the broader financial market are served by policies that bifurcate industries and that tilt the marketplace in favor of only certain types or sizes of institutions.

Additionally, the bills' provisions about business relationships between national consumer credit companies and depository institutions, when combined with the bill's preemption provisions, appear to be an effort to undermine Dodd-Frank's provisions which deny bank affiliates and operating subsidiaries access to national bank preemption. The effect of this would be to create yet another inconsistency in the marketplace.

Additional Concerns

I would like to mention a few additional concerns that CSBS has with the proposals that we have seen.

Inconsistent Consumer Disclosures. Under one legislative proposal, national consumer credit companies would not be required to disclose the annual percentage rate (APR) to consumers. The purpose of the APR is to provide consumers with a tool for comparing loans between competing lenders. With H.R. 1909 and H.R. 6139, consumers will be faced with two types of non-comparable disclosures: those provided by state-licensed lenders with the APR, and those provided by OCC-chartered lenders with no APR.

Inappropriate Support for Business Relationships. H.R. 6139 directs the OCC to encourage business relationships between national consumer credit companies and depository institutions – effectively telling a regulator that is should encourage business relationships between its regulated entities. Regulators simply do not -- and should not – be required to support such relationships. This is an inappropriate role for regulators and skews the marketplace in favor of one subset of institutions.

THE STATE OF STATE SUPERVISION

Supervisory Techniques Utilized by State Regulators of Non-Depositories

A key ingredient of state supervisory efforts is the licensing of non-depository providers. States have regulated non-depositories for decades and virtually all states require licensing of most non-depositories. The licensing of a non-depository typically requires the submission of personal background information on directors or officers, financial statements, surety bonds, and company policies. Once licensed, supervision transfers to examination oversight where state regulators trust, but verify, that the licensee is in compliance with safety and soundness and consumer protection requirements.

Today's state supervisory processes and information exchanges are largely formalized through regulatory associations and multi-state information sharing agreements. The associations include CSBS, AARMR, the National Association of Consumer Credit Administrators (NACCA), the Money Transmitter Regulators Association (MTRA), and the North American Collection Agency Regulatory Association (NACARA). Non-depository supervision is rapidly coalescing around the NMLS as a mechanism for all types of non-depository licenses, and in the coming months and years, the System will act as a functional supervision environment with the ability to manage examination caseloads, process consumer complaints, and archive examination records. For licensees, the NMLS has brought efficiency as it has promoted greater uniformity and consistency across the states.

In addition to these organizational connections, state regulators have joined forces through information and resource sharing agreements including the Nationwide Cooperative Agreement for Mortgage Supervision, the Money Transmitter Regulators Cooperative Agreement, the Nationwide Cooperative Agreement for MSB Supervision, the Information Sharing and Common Interest Agreement Between the State Attorneys General and the State Financial Regulators, the CFPB-CSBS Memorandum of Understanding, and the MOU between the U.S. Department of the Treasury, Financial Crimes Enforcement Network, and the state agencies. These agreements facilitate the legal and timely exchange of supervisory information and foster a cooperative environment of regulatory constructs focused on efficiency and effectiveness in state supervision.

Information sharing among regulators is central to effective and comprehensive oversight. I would also like to note that CSBS supports H.R. 6125, Congressmen Renacci's and Perlmutter's recently-introduced legislation to ensure that information shared with certain state and federal regulators retains confidentiality and privilege as it is shared with and among those regulators.

Currently in process is a new initiative to bring together the regulators of non-depository providers that are not already joined through a cooperative agreement. This includes check cashers, payday lenders, consumer finance companies, debt management companies, collection companies and any others identified as benefitting from a multi-state coalition. This agreement will be modeled upon the states' prior successes in coordinated supervision.

With or without multi-state coordination, states have long utilized our proximity to the entities we supervise to identify emerging trends and take action when necessary. Because of our close proximity to those entities we regulate and the local nature of most non-depository services, state regulators are most often best positioned to identify emerging threats and are able to move quickly in response. For instance, in 2010 alone, state regulators took approximately 9,500 actions against non-depository financial service providers.[2] And because states are closest to local and regional economics, they are best suited to determine consumer needs and business viability.

The majority of states conduct periodic on-site examinations of non-depositories. These exams are generally on an 18- to 24-month cycle and are based on risk assessments performed by regulators. State non-depository examination standards and objectives often share certain similarities with bank examinations, including a review of financial strength, operational effectiveness, asset quality, transaction volume, recordkeeping and reporting requirements, and capital adequacy, as well as Bank Secrecy Act and Anti-Money Laundering (AML) compliance. Non-depository exams also cover areas not typically found in bank examinations, including licensing requirements and compliance with state and federal consumer protection law.

In addition to regulation and supervision of business practices, requirements on the front-end of consumer transactions are used to increase transparency for consumers. Through disclosure requirements consumers are made aware of the service and product being provided. It is important to stress that consumers conducting transactions with state-authorized providers are afforded both federal and state consumer protections, and that many state regulators are charged with not only examining and enforcing state requirements, but all federal requirements, as well. This authority is unique to the state system of supervision and is not duplicated on the federal side. Despite the fact that most consumer protections exist within state law and regulation, no federal regulatory agency has the authority or responsibility to examine or enforce under these statutes.

---

[2] Source: CSBS 2010 non-depository survey. Not all states responded to the survey,

It may also be tempting for some to think that state supervision means inferior oversight. State non-depository supervision agencies employ approximately 700 field examiners dedicated to the examination of non-depositories. These compliance examiners perform on average more than 11,000 examinations each year for check cashers, payday lenders and money transmitters, or approximately 950 examinations each month.

However, contrary to the both bills' premise that state supervision is excessive and costly, state supervision is specifically calibrated to the business model being examined. State exams vary, but can include reviewing policies and procedures, interviewing management and employees, reviewing advertising, testing transaction files for consumer compliance, and reviewing the institution for safety and soundness concerns. In the case of payday lending, where the transaction is relatively homogenous and uniform in documentation and disclosure, state examiners are able to fulfill these review responsibilities with an average of only five hours per examination.

Likewise, this can be said for the burden of complying with various state restrictions placed on these financial products. Limitations on rates, fees, and numbers of loans per consumer are easily understood and unchanging. A lender operating in Nebraska should have no more difficulty charging a $15 fee on a $100 loan than they would have in Connecticut charging a $17 fee on a $100 loan. Arguing that such limitations create excessive compliance burden is rhetoric, not reality.

Supervision of Multi-State Non-Depository Providers

As the recent financial crisis evolved, state regulators recognized a need to create more coordinated supervision and more efficient channels of communication and information sharing. To that end, in 2008 CSBS and AARMR established the Multi-State Mortgage Committee (the "MMC") to serve as the coordinating body for examination and enforcement supervision of multi-state mortgage entities (MMEs) by state mortgage regulators. This successful venture largely serves as the state supervisory model going forward with other non-depository areas.

The MMC is tasked with developing examination processes that will assist in protecting consumers from mortgage fraud; ensuring the safety and soundness of MMEs; supervising and examining in an integrated, flexible and risk-focused manner while minimizing regulatory burden and expense; and fostering consistency, coordination, and communication among state regulators. The MMC is made up of mortgage regulators from 10 states and represents all states' mortgage supervision interests under the Nationwide Cooperative Agreement for Mortgage Supervision.

On the money transmitter side of state supervision, the MTRA formed the foundation for multi-state efforts by executing the Money Transmitter Regulators Cooperative Agreement in 2002 and the MTRA Examination Protocol in 2010, which 46 states have signed. These documents set up the framework the states use to coordinate money transmitter examinations and share information, minimizing regulatory burden on supervised entities and conserving regulatory resources.

To continue to improve multi-state supervision, the states enhanced the scope and expanded the scale of the 2002 MTRA Cooperative Agreement and the 2010 MTRA Examination Protocol through the CSBS-MTRA Nationwide Cooperative Agreement for MSB Supervision and the Protocol for Performing Multi-State Examinations. The enhanced Agreement covers currency dealers or exchangers, traveler's checks, money orders, prepaid access, stored value, and money transmitters. It is designed to promote a framework of coordination and consistency while ensuring regulatory requirements are met and burden is reduced for industry. To do so, the Agreement and Protocol outline how states will work together to examine for consumer protection and safety and soundness requirements in an efficient manner for both the states and supervised entities.

Through multi-state supervision agreements, state regulators actively work together to reduce regulatory burden and increase regulatory efficiency. Multi-state exams have a "lead state," which serves as a central point of contact. The lead state coordinates document and information requests and acts as a repository for documentation to help minimize duplicative document requests. As in the case of an exam conducted by a single state, multi-state exams focus on state and federal consumer protection review, but also include analysis of the provider's financial condition, adherence to state and federal regulatory requirements, and compliance with the Bank Secrecy Act and anti-money laundering requirements.

The various state regulatory associations play an active role in facilitating the multi-state supervision process. The ability to pool resources and the resulting increase in consistency and coordination benefits both the state banking departments and the regulated entities. States have recognized this through the work of the MMC and multi-state efforts in the MSB arena, as well as licensing through the NMLS, and we are confident this approach has the proper balance of efficiency and local regulation, as we bring multi-state supervision to all non-depositories. These efficiencies also carry through to coordination with federal regulators. The newly created CFPB has a mandate to coordinate with state regulators in carrying out its responsibilities. Existing infrastructures such as the MMC and MMET help states engage and coordinate efficiently in supervisory efforts with the CFPB.

This coordinated supervisory effort is intended to minimize regulatory burden and expense for the industry, and foster consistency, coordination and communication among the state regulators. Rather than subject a multi-state provider and its management to multiple state requests for information, the multi-state process conducts these examinations under a single examiner in charge with a coordinated approach and request for information, a system long sought after by the larger non-depository providers.

As mentioned above, the licensing of non-depository institutions is a key component of state supervision. Just this year, CSBS has expanded the use of NMLS to accommodate state use of the System for non-mortgage, non-depository financial services industries, including consumer lending, money services businesses, and debt collection. Since April 2012, seven state agencies in Louisiana, Massachusetts, New Hampshire, Oklahoma, Rhode Island, Vermont, and Washington have begun transitioning non-mortgage license authorities onto NMLS. Six more agencies plan to expand their use of NMLS in 2012, and at least 12 additional agencies are expected to do in 2013, including my home state of Nebraska.

As demonstrated by state participation in the mortgage and MSB Cooperative Agreements and a history of multi-state examinations and enforcement actions, and by ongoing collaborative efforts between state and federal regulators, enhanced state coordination benefits regulators, the regulated entities, and consumers. Today's non-depositories are local in touch and national in scale, so state and federal regulators must work together to ensure effective and consistent supervision. The evolution of state regulation has shown that uniform infrastructure and federal policy can support – not supplant – local governance and oversight. Combined state-federal regulatory regimes that include clear and appropriately calibrated incentives can promote consistent and comprehensive regulation without losing the benefits of states' "on the ground" perspective.

CONCLUSION

State financial regulators have done much to improve and enhance non-depository regulation to better protect the consumer and to strengthen the financial services market. Key to serving these goals is ensuring that the market is diverse and supports a variety of business models. As state regulators, we benefit from our proximity to the consumer transaction and to the communities served by the financial services providers. We hear first-hand about the regulatory burdens, and we see up close the consequences of bad actors. H.R. 1909 and H.R. 6139 take this perspective out of the picture for a broad range of transactions and financial services providers, to the detriment of the marketplace and of consumers.

The challenge for policymakers—and for the regulators who implement those policies—is to create a regulatory framework that ensures industry professionalism, industry and regulatory accountability, and the proper alignment of incentives but that also avoids unnecessary regulatory inefficiencies and burdens. For state regulators, policies and approaches that encourage regulatory collaboration and coordination and that support regulatory innovation have been vital to striking this balance.

Thank you for the opportunity to testify before you today. I look forward to responding to any questions or thoughts you may have.

AMERICANS
FOR FINANCIAL REFORM
ACCOUNTABILITY • FAIRNESS • SECURITY

Americans for Financial Reform
1629 K St NW, 10th Floor, Washington, DC, 20006
202.466.1885

July 24, 2012

The Honorable Carolyn B. Maloney
U.S. House of Representatives
2332 Rayburn House Office Building
Washington, DC 20515-3214

Dear Congresswoman Maloney,

We write to urge you to oppose H.R. 6139, the "National Consumer Credit Corporation Charter and Consumer Access Innovation Act of 2012," and any similar legislation that may be introduced.

The bill would:

- Weaken consumer protection against financial abuses;
- Undermine the authority of the CFPB over a huge swath of consumer financial products and services; and
- Override state consumer protection laws through preemption.

Among our many concerns with the legislation, H.R. 6139 would replace regulation of pay day lenders by the Consumer Financial Protection Bureau (CFPB), and state consumer protection regulators and Attorney's General, with greatly weakened consumer protection standards administered by the Office of the Comptroller of the Currency (OCC). Simply put, the bill constitutes a sharp downward departure from the consumer protection standards established by Dodd-Frank and sidelines state law enforcement.

H.R. 6139 would allow national consumer credit corporations to bypass the oversight of the CFPB and state law enforcement agencies, and instead choose to be regulated by OCC. It would create a new federal charter under the OCC for a broad range of consumer financial products and services now subject to state supervision, which would include payday lenders, installment lenders, car-title lenders, prepaid-card issuers, check cashers, money-order/wire-transfer/remittance providers, and more. The OCC would become the primary regulator for these financial services companies and their products.

This shift exposes consumers and the financial services marketplace to the very dangers that contributed to the economic crisis. The CFPB was created for the sole purpose of protecting consumers through oversight, rulemaking and enforcement of the rules for the very consumer financial products and services marketed and sold by the companies covered in this legislation. In contrast, the OCC's primary mission is to protect financial companies, not protect consumers from deceptive or abusive lending practices.

The bill would also allow for the OCC to override state-based consumer protections through preemption. By getting an OCC charter, companies could evade state consumer protections. But the states' strong consumer protections would not be replaced by equivalent or stronger federal law – instead, the companies could take advantage of weaker standards used in the OCC's chartering and oversight process. This echoes the mortgage crisis, where the OCC's aggressive preemption of state protections against abusive home loans, without putting into place effective federal protections, contributed to the melt-down. H.R. 6139 and similar bills would repeat the same mistake for other consumer financial services.

H.R. 6139 also undermines more than 40 years of established and accepted consumer protections. The bill exempts lenders from core consumer protections, such as the federal requirement that they disclose the annual interest rate on loans. It also would wipe out longstanding state oversight and consumer protections against usurious loans and abusive practices.

Less than six months after the Consumer Financial Protection Bureau has been fully operational with a director in place, H.R. 6139 would backtrack on Congress' promise to consumers. This bill offers nothing beneficial for consumers – and removing consumer finance companies from CFPB oversight will set a precedent for many other companies to also seek exclusion.

We urge you to oppose H.R. 6139 and similar bills, and allow the CFPB and the states to consider appropriate rules of the road so that consumers can choose among products in a fair and transparent marketplace.

Sincerely,

Americans for Financial Reform
Arkansans Against Abusive Payday Lending
California Reinvestment Coalition
Center for Responsible Lending
Consumer Action
Consumer Federation of America
Grass Roots Organizing
Mission Asset Fund
NAACP
National People's Action
NEDAP
Southwest Center for Economic Integrity, Tucson, Arizona
U.S. PIRG
Woodstock Institute

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- Americans for Democratic Action, Inc

- American Income Life Insurance
- Americans United for Change
- Campaign for America 's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Greenlining Institute
- Good Business International
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women 's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Move On
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza

- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Council of Women's Organizations
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Signers

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA

- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland , Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center

- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance , Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center , CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital , Pheonix AZ
- The Holographic Repatterning Institute at Austin
- UNET

THE HISPANIC INSTITUTE

July 20, 2012

Chairman Spencer Bachus
Financial Services Committee
2129 Rayburn HOB
Washington, DC 20515

Dear Congressman Spencer Bachus:

The Hispanic Institute (THI) strongly supports HR 6139, The Consumer Credit Access, Innovation and Modernization Act to create a national charter for non-depository institutions. THI, as part of our mission, studies Hispanic economic contributions as well as the impact of federal and state financial policies on this country's largest minority population. Research conducted by THI and others, consistently shows that the traditional banking system fails to provide adequate consumer credit to the Hispanic community. Banks demonstrate little interest in serving this emerging and robust economic constituency, and inadequate federal government regulatory policies do not help. Thus, THI concludes that national nonbank chartered institutions could provide innovative credit products that Hispanic consumers need and desire.

The Hispanic community trails other groups on most measures of economic well-being and that the gap has widened since 2005. A recent report by the Pew Research Center, "Hispanics Say They Have the Worst of a Bad Economy," found that while Latinos represent 16% of the U.S. population, 75% identified their personal finances as in "only fair" or "poor" shape, 49% delayed a major purchase in the last year, and 28% were underwater on their mortgage.[1] A previous Pew Research Center study, "Wealth Gaps Rise to Record Highs between Whites, Blacks, and Hispanics," reported that the median household wealth among Latinos fell by 66% from 2005 to 2009[2]. In 2009, the FDIC reported that 43.3% of Hispanics were either unbanked or under banked.[3] Three years later, that number is likely to have grown to over 50 percent. These statistics underscore that banks continue to underserve the Hispanic community with predictable results.

---

[1] "Hispanics Say They Have the Worst of a Bad Economy," Pew Research Center, January 2012
[2] "Wealth Gaps Rise to Record Highs Between Whites, Blacks, Hispanics," Pew Research Center, July 2011
[3] "FDIC National Survey of Unbanked and Under banked Households," FDIC, December 2009

It is imperative that the federal government finally look beyond the traditional banking system. THI endorses new financial regulatory policies to allow alternative financial services providers to invest in credit products and services most suited to our constituency. Two years ago, our report "Thinking Outside the Banks: Hispanic Access To Non-Traditional Credit Sources" found that in making credit decisions, Hispanics consider several options, include foregoing certain purchases or payments (rent/mortgage, health care, transportation, utilities, credit cards, food, and fees), or seek alternative credit options.

Historically, there is no doubt banks have done a fiscal and moral disservice to minorities in general and Hispanics in particular. We know that banks have red-lined borrowers in our communities, predatorily lent to our families, and preyed on our homeowners with onerous and costly subprime lending. Lives and families are being destroyed while banks continue to get a slap on the wrist and settlements for pennies on the dollar from a federal government that claims to protect consumers.

As your Committee considers new policies, it's essential that these policies encourage greater access to credit services and additional safe and regulated products for low income families. Inaction or ineffective changes that constrain access to credit services will bring long-term negative impacts to Hispanic community. Since traditional banks cannot or decline to broaden access to credit, alternative financial services providers can help. They possess the willingness, technologies and innovation necessary to bring better credit options to the American market. The federal financial regulatory system outdates current consumer credit demands. HR 6139 will provide the alternative needed to serve the Hispanic community.

Sincerely,

Gus K. West
President and Board Chair of The Hispanic Institute
www.thehispanicinstitute.org

The 60 Plus Association

515 King Street • Suite 315 • Alexandria, VA 22314
Phone 703.807.2070 • Fax 703.807.2073 • www.60Plus.org

Kill the Death Tax. Protect Social Security. Energy Security.

James L. Martin	*Amy N. Frederick*	*Rep. Roger Zion (R-IN, 1967-75)*	*Pat Boone*
Chairman	*President*	*Honorary Chairman*	*National Spokesman*

July 23, 2012

House Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit

Dear Committee Members,

On behalf of 7.2 million senior citizens, we are writing to express our support for H.R. 6139, the "Consumer Credit Access, Innovation and Modernization Act," introduced by Rep. Blaine Luetkemeyer (R-MO) and co-sponsored by Rep. Joe Baca (D-CA), Rep. Stephen Fincher (R-TN), Rep. Gregory Meeks (D-NY), and Rep. David Schweikert (R-AZ). Our organization prides itself on representing a solid and determined group of retired Americans who built their lives honestly and to the best of their God-given abilities. Many of our seniors are resorting to credit options to fill holes in their budgets. But given the nature of the credit crisis, many find they are not able to get the credit they need. A recent study by the National Bureau of Economic Research found that half of Americans are unable to raise $2,000 within 30 days to meet an emergency.

Our households represent a diverse and largely middle-class group of senior citizens who worked hard and played by the rules. We continue to pride ourselves on our ability to live the rest of our days blessedly free from big government interference.

We also fully understand that some of our seniors do, occasionally, find themselves in need of short-term financial support to meet unexpected expenses. Many of our seniors are resorting to transient credit options to fill holes in their budgets. But given the nature of the credit crisis, many find they are not able to get the credit they need.

It is our understanding of the current challenges that confront our economy and the fact that a growing class of financial services and technology innovators are creating short-term credit solutions, with fully disclosed fee terms, that lead us to support the overall focus of H.R. 6139 which was introduced last week.

In the coming months, our supporters and policy team will play close attention to the review of this legislation as it winds its way through assorted committees on Capitol Hill. For now, though, we are satisfied with the fact that this legislation is the product of bipartisan engagement and the ingenuity of technology innovators who are matching the market imperative of quick, efficient access to short-term credit solution that meet the occasional, transient financial needs of 60 Plus members.

Sincerely,

James L. Martin, Chairman

The 60 Plus Association is a 20-year-old nonpartisan organization working for death tax repeal, saving Social Security and Medicare, affordable prescription drugs, lowering energy costs and other issues featuring a less government, less taxes approach as well as a strict adherence to the Constitution. 60 Plus calls on support from over 7 million activists. 60 Plus publishes a newsletter, SENIOR VOICE, and a Scorecard, bestowing awards on lawmakers of both parties who vote "pro-senior." 60 Plus has been called, "an increasingly influential senior citizen's group."

QUIK www.quikpawnshop.com

July 23, 2012

The Honorable Shelley Moore Capito, Chairman
The Honorable Carolyn Maloney, Ranking Member
House Committee on Financial Services
Subcommittee on Financial Services Committee and Credit
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Capito and Ranking Member Maloney:

As an owner of a pawnshop company I am writing to stress my strong support for H.R. 6139, The Consumer Credit Access, Innovation and Modernization Act, sponsored by Representative Luetkemeyer and Representative Baca.

I commend the bill's sponsors and committee leadership for taking up this important piece of legislation. As someone on the front lines of the credit crisis, I can tell you with certainty that many Americans are not having their credit needs met by banks, credit unions or any of the other non bank lenders in the country. Many studies support what I see on a daily basis, people need loans in the $1000 to $5000 range and find that institutions are either unwilling or unable to help them, leaving them unable to finance car repairs or other midrange expenses or start or fund small business operations.

I understand that the National Pawnbrokers Association has come out in opposition to this bill, but as someone who has been in this business for 34 years I strongly believe that any effort to increase the credit options of Americans is something that should be supported.

The pawn business is a noble profession and I am proud to be part of its storied history. But I can tell you as a pawnbroker I am limited in the credit options I can offer borrowers. For instance, I am required to take collateral for any loan I make. So even if under my underwriting standards I believe a borrower is a good risk I cannot make them a loan without collateral. Under state law, I am required to collect the full principal of the loan and my fee in one lump sum within 30 days even if I determine that the borrower would be better off with a loan that allowed him to pay the balance down over a length of time.

H.R. 6139, would help alleviate this problem by creating a national charter for non-depository institutions which would allow companies like mine to develop and offer innovative and affordable products to borrowers in a manner similar to other federally chartered lending institutions. Companies chartered under the provisions of this legislation would be subject to the full regulatory and supervisory authority

Post Office Box 241525 • Montgomery, Alabama 36124-1525 • 334-281-0052 • Fax 334-281-9029

of the Office of Comptroller of Currency (OCC). In addition, these companies would be subjected to the oversight of the CFPB and state attorneys general for additional consumer protection. I urge your support for H.R. 6139.

Sincerely,

Frank Evans
CEO
Quik Pawn Shop

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

MARK L. SHURTLEFF
ATTORNEY GENERAL

JOHN E. SWALLOW
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

Statement of Hon. Mark Shurtleff, Utah Attorney General on H.R. 6139, the "Consumer Credit Access, Innovation and Modernization Act," to the Subcommittee on Financial Institutions and Consumer Credit of the House Financial Services Committee

Chairwoman Capito and Members of the Subcommittee, I am pleased to present this testimony on H.R. 6139, the "Consumer Credit Access, Innovation and Modernization Act." This bipartisan bill, recently introduced by Congressmen Luetkemeyer and Baca, would provide for the issuance of a federal operating charter by OCC for qualified nonbank lenders which focus their lending activities on providing loans and other financial products and services to underserved consumers who generally cannot obtain the credit they often desperately need from traditional banking institutions. These new lenders also would be allowed to provide additional credit to small businesses with less than 500 employees.

Let me begin by noting a simple, irrefutable and very troubling truth: we have a shockingly large number of Americans----tens of millions of consumers, reportedly perhaps as high as half of all American families----who have ongoing needs for small-dollar credit extensions and these consumers typically are unable to obtain the loans they need from depository institutions. Experience has shown that it is extremely difficult, if not impossible, for most banks to make a commercially viable profit on such small loans. Banks have relatively high operating costs on small loans and, perhaps more significantly, as federally insured depositories, necessarily high credit standards to guard against credit losses. Underserved consumers typically have less than perfect credit histories and pose higher credit risks. Most could not qualify under banks' credit requirements even if these depository institutions offered more small loans. Banks therefore cannot be expected to be able to serve this market segment on a widespread basis anytime soon.

Underserved consumers are left with seeking to meet their pressing credit needs by relying largely on loans and other financial services from nondepository lenders such as finance companies, title and payday lenders, and pawn shops, and on family and friends, as well as "loan sharks" and unfortunately increasingly on rogue offshore Internet lenders who disregard federal and state consumer protection laws and often charge exorbitant prices. This last group is especially concerning to me and other Attorneys General.

I applaud the intent of H.R. 6139 in seeking to provide underserved consumers, as well as small businesses, with far more credit alternatives, and choices that are innovative, more affordable and better suited to their needs. From my perspective as Utah's top law enforcement official I want to focus my comments on how I believe this legislation addresses consumer protection. First, I believe that having these new Consumer Credit Corporations should greatly increase competition in the underserved segment of the marketplace. Competition will lead to more innovation and lower prices for consumers, and it will help weed out many of the bad actors. In that regard, if enacted, this bill would go a long way towards overcoming the growing problem we now have with unregulated offshore Internet lenders.

Consumers are likely to shift to well-regulated domestic Internet and storefront lenders operating as Consumer Credit Corporations which should be able to offer them better priced, more suitable financial products.

Let me add a word on the importance of promoting competition as opposed to protecting competitors. I am sure that you will have some nonbank lenders strongly oppose this bill because they fear competition from these new federally chartered lenders. This is not surprising, especially since many nonbank lenders essentially have be granted very profitable credit monopolies under various state laws to offer limited types of high cost, high profit credit products. I urge you from a public policy perspective to have your decisions on this legislation guided by the principle of promoting competition, not protecting competitors.

Now, my other main concern with this legislation is whether it provides for adequate consumer protections and for a strong role for State Attorneys General or other state regulators as the "cop on the street" to enforce those protections. As this legislation was being drafted, I conveyed these concerns to its sponsors and am very pleased that they have addressed them in H.R. 6139 as introduced. Specifically, the bill provides that all federal financial consumer protection laws apply to these new Consumer Credit Corporations, just as they do to other creditors, be they depository or nondepository lenders. In that regard, in addition to OCC enforcement of this bill's provisions, the Consumer Financial Protection Bureau (CFPB) would have full enforcement authority under those federal laws to regulate Consumer Credit Corporations. Most importantly from the perspective of a State Attorney General, H.R. 6139 provides that State Attorneys General, or comparable State regulators, would have full authority to investigate violations and enforce the provisions of this legislation without specific OCC authorization, and all of these State officials' existing enforcement authorities under the Dodd-Frank Act and various federal laws and regulations are preserved. I strongly endorse these provisions and urge that Congress adopt them.

In closing, I want to comment on the bill's preemption provision, which is based on the workable concepts that Congress passed in the Dodd-Frank Act. While I believe that federal legislators should be judicious in applying federal preemption, I recognize that in some cases it is appropriate, and I think this is one of them. Simply put, we have a credit crisis for millions of Americans in literally every state. Congress must act to provide far better credit access to these underserved consumers who cannot obtain adequate credit from traditional banking institutions. The current patchwork of widely differing, often conflicting and outdated state laws clearly does limit innovation and product offerings by nonbank lenders who now serve this market and high lender compliance costs raise consumers' costs. What other way is there to cut through this regulatory morass than to provide at least an optional federal approach for nonbank lenders to be able to offer consumers many more credit choices? Frankly, I see none.

Given that this legislation provides state regulators with full enforcement authority of all applicable federal laws, I am comfortable with applying preemption in this instance. These federal laws and implementing regulations provide very strong and quite adequate consumer protections, and I and other state regulators will have no impediment to enforcing them to protect the consumers in our respective states.

I commend H.R. 6139's sponsors for their thoughtful approach to addressing our nation's consumer credit crisis and for their responsiveness to the concerns I and other state regulators have raised, and I urge this Subcommittee to move H.R. 6139 forward toward enactment.

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

MARK L. SHURTLEFF
ATTORNEY GENERAL

JOHN E. SWALLOW
Chief Deputy

Protecting Utah • Protecting You

KIRK TORGENSEN
Chief Deputy

July 23, 2012

The Honorable Shelley Moore Capito, Chairman
The Honorable Carolyn B. Maloney, Ranking Member
The Financial Institutions and Consumer Credit Subcommittee
The Committee on Financial Services
United States House of Representative
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Capito and Ranking Member Maloney:

As an Attorney General tasked with upholding critical consumer protections, I am writing to you on behalf of consumers at risk across my state. Specifically, I am reaching out today in response to your request for comments on the Consumer Credit Access, Innovation and Modernization Act.

This bill would authorize the Comptroller of the Currency (OCC) to issue federal operating charters to National Consumer Credit Corporations (NCCCs) which would be nondepository lenders that focus their lending activities on providing many more affordable credit options to underserved consumers, as well as to small businesses. NCCCs would be subject to regulation and supervision by the OCC with respect to their business operations and by the Consumer Financial Protection Bureau (CFPB) with respect to compliance regarding all federal consumer financial protection laws (e.g., Truth in Lending). NCCCs would also be subject to nondiscriminatory state consumer protection laws and other such state lending laws that do not prevent or significantly interfere with a NCCC's exercise of its powers in providing OCC approved products to underserved consumers. In essence, the bill follows the preemption standards set out in the Dodd-Frank Act applicable to national banks. In addition, the bill provides for State Attorneys General to enforce the provisions of this bill in areas where OCC is the primary regulator on a case-by-case basis, and, most significantly, State Attorneys General

UTAH STATE CAPITOL • 350 NORTH STATE STREET, SUITE 230 • P.O. BOX 142320 • SALT LAKE CITY, UTAH 84114-2320
TELEPHONE: (801) 538-9600 • FAX: (801) 538-1121

---

also would retain their separate authority under Dodd-Frank to enforce federal consumer financial protection laws with respect to these new federally chartered nondepository lenders.

As pointed out in the Congressional Findings in the bill, it is well established that tens of millions of Americans----around half of all families----have periodic needs for short-term, small loans and other nondepository financial services that they cannot obtain from traditional banking institutions, typically because their credit history prevents them from qualifying for loans under the high standards insured depositories must maintain. To meet their pressing credit needs, these consumers throughout the nation must and do rely primarily on nondepository lenders, such as finance companies, payday and title lenders, and pawn shops, which have more flexible credit standards.

My state has its own unique set of laws that govern what types of credit products may be offered to local consumers. While state lending laws offer important consumer protections, as noted in this bill's findings, they also can have other effects that adversely impact consumers. Differing state laws do increase lenders' compliance costs, which are passed on to consumers, and they typically only allow lenders to offer a narrow range of credit options which in many cases are not well suited to a consumer's particular needs. However, from the perspective of an Attorney General as the chief law enforcement officer in my state, there is a serious and disconcerting issue presented that is growing rapidly.

Millions of consumers in states throughout the nation are turning to online lenders to meet their credit needs. While legitimate U.S. based online lenders are an important source of credit and are regulated by federal and state laws, there also are many offshore online lenders who are now operating in disregard of our laws and in many instances engaging in abusive lending practices. It is extremely challenging under the best of circumstances to take effective enforcement actions against these offshore lenders. While your bill is not intended to directly address this problem, we believe that it will help do so indirectly. If consumers have more affordable, better-suited and well-regulated domestic credit options, they will be far less likely to seek credit from unregulated offshore lenders. And, increased competition should also provide other consumer benefits such as lower priced products.

While consumers deserve to have ample affordable credit alternatives, my main concern as Attorneys General is to ensure that any creditor operating in my state are subject to strong consumer protection laws, be they state or federal statutes, and, most significantly, that my office has authority to enforce these laws against lenders who do not abide by them. In this regard, I want to point out that we already have a so-called "dual banking system," with both federal and state chartered and regulated depository institutions, where state Attorneys General have considerable authority to enforce federal consumer financial protection laws, as well as applicable state laws. If your legislation is enacted, we will still have state licensed and regulated nondepository lenders as well as the new NCCCs that will bring more competition to this market segment.

I am pleased that this legislation would make NCCCs fully subject to not only OCC regulation as to their business operations, but also to regulation by the new federal Consumer Financial Protection Bureau (CFPB), which would be their primary regulator with respect to all federal consumer financial protection laws. This is quite important from our perspective because Attorneys General have significant authority under the Dodd-Frank Act to enforce the federal consumer financial protection laws and CFPB's implementing regulations. It also is appropriate, as you have provided for to have the case-by-case state enforcement authority in areas where OCC is the primary regulator, and to follow the more restrictive Dodd-Frank preemption standards instead of adopting a broader approach.

Sincerely,

Mark L. Shurtleff
Utah Attorney General

Kenneth W. Edwards' Responses to Questions for the Record
Financial Institutions & Consumer Credit Subcommittee Hearing
Examining Consumer Credit Access Concerns, New Products, and Federal Regulations

1) Your testimony seems to contend that if H.R. 6139 were to be enacted, the CFPB would not have the authority to regulate National Consumer Credit Corporations. The legislation, however, specifically states on page 24, that a credit corporation is, "subject to all otherwise applicable provisions of federal statutes and regulations, including the consumer financial protections laws listed under section 1002(12) of the Consumer Financial Protection Act of 2010 [and implementing regulations]." This includes CFPB enforcement and all federal consumer protection laws. How do you reconcile your position with this legislative language?

   RESPONSE: The enumerated consumer laws, listed under Title X, section 1002(12) of the Consumer Protection Act of 2010 (hereinafter "Dodd-Frank"), specifically refer to the 18 enumerated consumer laws transferred whole or in part to the CFPB from other federal regulatory agencies.[1] These enumerated statues do not specifically relate to the CFPB's regulatory purview of non-depository institutions, such as National Consumer Credit Corporations (hereinafter "non-depositories"). Title X, section 1024 of Dodd-Frank relates to the CFPB's supervision, rulemaking, and enforcement authority over non-depositories.[2] This section explains that, to the extent federal law permits the CFPB and another federal agency to issue regulations, conduct examinations, or require reports from non-depositories—the CFPB shall maintain exclusive authority to write rules, issue guidance, conduct examinations, or require reports regarding such non-depositories.[3]

   Accordingly, the CFPB could share Title X, section 1024's authority with another agency, to the extent authorized by federal law. But as CRL's written testimony illustrates, even where regulatory authority might be split between the Office of the Comptroller of the Currency (OCC) and CFPB, H.R. 6139 contemplates a potentially incongruent regulatory regime. That is, the OCC may approve non-depositories' offerings of financial products that could also violate Dodd-Frank's provision against unfair, deceptive, abusive acts or practices.[4] Such a scenario would present a confusing regulatory framework—resulting in the agencies facing off in federal court during protracted and intense inter-agency litigation.

2) A good portion of your testimony focuses on the problems with payday loans and your contention that H.R. 6139 would allow NCCCs to offer pay day loans at a national level.

---

[1] The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 §1002(12), 12 U.S.C. §5481(12).
[2] *Id* at §1024, 12 U.S.C. §5514.
[3] *Id.*at §1024(d), 12 U.S.C. §5514(d).
[4] *Id.* at §1031, 12 U.S.C. §5531.

This is done even though the bill specifically prohibits NCCCs from offering a product with a term of 30 days or less—the typical term of traditional payday loans. Considering this, and given that the OCC has also stated its opposition to payday products and their ability under the bill to approve or disapprove of products, why do you believe that HR 6139 will allow NCCCs to offer pay day products on a national level? Either way, would it not be simple to refine the bill if needed to make it clear that no payday advance product could be offered by a NCCC?

RESPONSE: In the past, payday lenders have augmented their products so they would fit within the letter of state law. We expect that payday lenders would do so in this case, moving from a two-week loan term to a loan term of 32 days, for instance, in order to avoid the reach of the CFPB. In addition, although the typical payday loan term today is about two weeks, payday loans may be structured for varying durations, including terms of 31 days or more. Also, the Department of Defense, under the Military Lending Act, defines a payday loan, in part, as having a term of 91 days or fewer.[5] H.R. 6139's prohibition of non-depositories offering financial products with a term of 30 days or fewer would not prohibit charter holders from offering payday loans with longer terms. Furthermore, Cash America—one of the nation's largest payday lenders—is a chief proponent of H.R. 6139. And Cash America's strong support for the legislation substantiates the likelihood that chartered non-depositories would offer payday loans nationwide, despite attempts to refine the bill with language prohibiting payday advance products.

3) Do you believe that the current patchwork of state laws and regulations allow for underserved consumers across the country to have access to a sufficient range of credit products? If not, what can be done to ensure that these options are increased?

RESPONSE: States are the traditional regulator of most small loan products, including payday loans. In fact, state regulations of nonbanks have existed for over 200 years. State regulations are at the ground level in the fight against predatory short-term lending. But H.R. 6139 would allow chartered non-depositories to offer payday loans in jurisdictions that have either outlawed or substantially regulated such financial products. The Pew Charitable Trusts recently released a survey that revealed, in part, two key findings:

- "[I]f faced with a cash shortfall and payday loans were unavailable, 81 percent of borrowers say they would cut back on expenses. Many also would delay paying some bills, rely on friends and family, or sell personal possessions."

---

[5] 32 C.F.R. §232.3(b)(1)(i).

- "[I]n states that enact strong legal protections, the result is a large net decrease in payday loan usage." [6]

As the research findings illustrate above, where payday lending is heavily regulated or otherwise unavailable, consumers indicate by wide margins their preferences for alternative means to meet cash shortfalls. Preferences to have increased access to a range of payday advance products are not supported by the evidence. But consumers should have access to safe, affordable, and sustainable loans that reasonably assess their ability to repay. Many lenders made little efforts to offer consumers safe loans leading up to the financial crisis—resulting in disastrous effects for many American households. Lenders can meet underserved consumers' short-term credit needs by ensuring financial products do not ensnare borrowers in financial-debt traps. Small-dollar lending serves consumers best, for instance, with terms that are fully amortizing and have interest rate caps.

4) Do you think that depository institutions will provide in the near future an adequate level of affordable, non-abusive credit products to most, or even a majority of underserved consumers, many of whom cannot currently access mainstream financial products from these same institutions?

   RESPONSE: Market demand will dictate the extent to which depository institutions will provide safe, affordable, non-abusive small-dollar credit products. All lending should be done within the frameworks of strong consumer protection and institutional safety and soundness.

5) Given the current state of affairs and the limited availability of small dollar, short-term credit products that millions of underserved Americans need, the fact that these same underserved Americans cannot gain access to mainstream credit products offered by depository institutions, and your stated opposition to H.R. 6139, what do you propose that Congress do to ensure these consumers have an adequate range of credit options to meet their needs?

   RESPONSE: Considering the on-going innovative efforts of the financial marketplace, sensible rules of the road must be established to ensure its safe operation for consumers. Congress granted the CFPB the authority to make this happen. To ensure that underserved consumers have access to an adequate range of credit options, Congress should allow the Bureau to do its job in protecting American consumers from harmful

---

[6] The Pew Charitable Trusts, *Payday Lending in America: Who Borrows, Where They Borrow, and Why*, July 19, 2012, http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Payday_Lending_Report.pdf. Pew's findings also revealed the results of a focus group that Pew conducted, in 2011, near Manchester, New Hampshire. Borrowers mentioned the various strategies they used instead of payday loans, since storefront lenders were no longer there. Responses included: "budgeting, prioritizing bills, pawning or selling belongings, [and] borrowing from family members . . . ." *Id.* at 17.

financial products, and allow states to continue to provide protections to their respective residents.

1. H.R. 6139 would change disclosure of credit costs for all creditors, including NCCCs, and use a more accurate disclosure instead of TILA's APR disclosure for credit extensions of one year or less. Other than this change, what other federal statutory or regulatory changes does the bill make that would subject NCCCs to provisions less stringent than current federal law?

   RESPONSE: Under H.R. 6139, chartered non-depositories would be subject to the OCC's supervisory and rulemaking authority—although the agency has no experience in non-bank regulation. Leading up to the financial crisis, as a prudential regulator, the OCC was primarily focused more on the safety and soundness of the financial institutions it regulated—and less so on consumer protection. Ironically, it was the OCC's lack of focus on consumer protection that led to the dismantling of the safety and soundness of some of its regulated entities. Also during that time, many non-depository financial institutions were engaged in reckless predatory lending with little oversight. The result was an unleveled playing field between banks and nonbanks. In addition, these institutions often targeted the most vulnerable consumers with financial products that contained abusive loan terms. Congress created the CFPB to correct such egregious market failures, end unsustainable lending, and protect consumers from harmful financial products and services. And Title X, section 1024 of Dodd-Frank, tasks the Bureau with the specific power to supervise non-depositories and to level the playing field. This authority should remain within the sole purview of the CFPB.

2. Does CRL feel that consumers will not be adequately protected on consumer financial services matters by federal laws and regulations, and CFPB's regulatory, supervisory and enforcement powers?

   RESPONSE: Since having an appointed director for about 10 months, the CFPB has begun exercising its full authorities granted by Congress, including launching its nonbank program to supervise non-bank entities, such as payday lenders.[7] But it is important to note that as the CFPB goes about making America's financial markets safe, and protecting consumers from harmful financial products and services, the CFPB's efforts to do so should not be intentionally undermined or circumvented by those who would prefer less consumer protection and regulatory oversight. The CFPB should be allowed to go about its mission to protect American consumers from unfair, deceptive, abusive acts or

[7] Prepared Remarks by Richard Cordray, Director of the Consumer Financial Protection Bureau, The Brookings Institution, Jan. 5, 2012, http://www.brookings.edu/~/media/events/2012/1/05%20cordray/0105_cordray_remarks.

practices. And if the CFPB fails to do so, then Congress should exercise oversight to ensure that the CFPB does its job.

3. In your testimony, you express concern as to how CFPB and OCC will interact under H.R. 6139. What specific provisions cause problems and what sections, if any, prevent CFPB from using its full set of powers with regard to NCCCs?

   RESPONSE: As indicated above, the enumerated consumer laws, listed under section 1002(12) of Dodd-Frank, specifically refers to the 18 enumerated consumer laws transferred whole or in part to the CFPB from other federal regulatory agencies. These enumerated statues do not specifically relate to the CFPB's regulatory purview of non-depository institutions. Title X, section 1024 of Dodd-Frank relates to the CFPB's examination, rulemaking, and enforcement authority over non-depositories. And section 3(d) states that such authority is exclusive to the CFPB to enforce federal consumer financial laws, including any regulations thereunder, to the extent federal law authorizes the CFPB and another federal agency to issue regulations, guidance, or conduct examinations regarding such non-depositories.

   And so, the CFPB could share Title X, section 1024's authority with another agency, where authorized under federal law. But as CRL's written testimony illustrates, even where regulatory authority might be split between the OCC and CFPB, H.R. 6139 contemplates a potentially incongruent regulatory regime. That is, the OCC may approve non-depositories' offerings of financial products that could also violate Dodd-Frank's provision against unfair, deceptive, abusive acts or practices. Such a scenario would present a confusing regulatory framework—resulting in the agencies facing off in federal court, during protracted and intense inter-agency litigation.

4. Does CRL believe that a large number of American consumers are unable to obtain the credit periodically need from traditional banking institutions (other than expensive overdraft protection products) and obtain credit from nonbank lenders, including increasingly unregulated offshore Internet lenders?

   RESPONSE: Payday lenders often erroneously state that there is a huge demand for their product. CRL's report, *Phantom Demand,* demonstrates that 76 percent of so-called "demand" for payday loans comes directly from loan churn—or, consumers being forced to take out additional payday loans in order to be able to afford to pay back the original loan.[8] The fact is there is a lot less demand for short-term loan products than meets the eye.

5. Your organization appears to oppose many of the short-term, small loan products offered by nonbank lenders. Please provide the Subcommittee with a detailed explanation of a range of credit products that you believe can be offered on a commercially-viable basis by nonbank lenders and a list of commercially-viable products that could be offered by depository institutions, to meet the credit needs of underserved consumers?

   RESPONSE: As noted earlier, much of the so-called demand for payday loans comes directly from the lack of affordability of the product, combined with a short-term, balloon payment. A range of commercially viable credit products that can be offered to consumers include, for instance—overdraft lines of credit, payday loans that come under 36 percent APR cap, installment loans that come under a 36 percent APR cap, credit card lines of credit.

[8] Leslie Parrish and Uriah King, "Phantom Demand: Short-Term Due Date Generates Need for Repeat Payday Loans, Accounting for 76% of Total Volume," Center for Responsible Lending, July 9, 2009, http://www.responsiblelending.org/payday-lending/research-analysis/phantom-demand-exec-summary-final.pdf.

Congressman Joe Baca
Financial Institutions & Consumer Credit Subcommittee Hearing
Examining Consumer Credit Access Concerns, New Products, and Federal Regulations
Questions for the Record

Questions for Grovetta Gardineer, Deputy Comptroller for Compliance Policy, Office of the Comptroller of the Currency

1) If you agree that so many Americans have serious credit access problems and you do not like HR 6139's approach for addressing them, can you explain in detail how the OCC believes these problems can be promptly and effectively resolved?

   Response: Congress, in the Dodd-Frank Act, authorized the Treasury Department to establish programs with depository institutions, community development financial institutions, state and local governments, and others to encourage the provision of low-cost, small-dollar loans to consumers, so as to create viable alternatives to costlier loans. The OCC believes such programs will provide a valuable mechanism for supervisors and industry participants to collaborate on innovative approaches to address the needs of underserved consumers and consumers who may have blemished or limited credit history and, thus, limited access to traditional credit products.

   The OCC provides guidance to the depository institutions that we supervise through a variety of methods, including through the issuance of OCC Bulletins and Advisory Letters, by participating in industry conferences and forums, and through in person meetings with bankers to discuss the depository institution's efforts to offer products and services to underserved markets. This guidance and outreach establishes expectations that depository institutions will offer financial products and services in a safe and sound manner, and in compliance with consumer protection laws and regulations. Additionally, the OCC encourages depository institutions to offer innovative and affordable financial products and services, as doing so will be considered when the agency evaluates the institution's Community Reinvestment Act (CRA) performance.

2) In your testimony, you state that your opposition to HR 6139 is based in part by your contention that the small-dollar, short-term loans which the proposed NCCCs would be able to offer would be dependent on trapping consumers into repeated credit transactions, causing a never-ending cycle of debt. Given the fact that many of these products are authorized and regulated at a state level, do you believe that the state regulators and legislatures that oversee the nonbank lenders offering these products are failing to provide adequate consumer protection?

   Response: The OCC does not have any data or information that suggests that state regulators and legislatures are not meeting their obligations with regard to consumer protections.

3) Do you believe that it is realistic to expect that current depository institutions can offer underserved consumers a variety of innovative, affordable, and non-abusive loans on a widespread, commercially viable basis enough to meet the current growing credit needs of many Americans? If so, why aren't these institutions doing so now?

   Response: The financial sector is designed to accommodate multiple lending business models, which includes both depository and non-depository entities, to meet the credit needs of the market. Although each depository institution's Board of Directors and executive management team have discretion in terms of the products and services that are offered to the public, the choices made must still be consistent with the institution's approved business plan, its risk management capacities, and the expertise of its personnel. Moreover, the Board and management must consider the competition to be faced before offering new products or services. The OCC requires that the national banks and Federal savings associations which it supervises provide financial products and services to their customers in a safe and sound manner and in compliance with consumer protection laws and regulations. Banks and Federal savings associations that offer credit products, including small-dollar loans, may require that customers have existing depository relationships with them as a condition of extending credit. Many consumers choose to not have traditional banking relationships or deposit accounts, opting instead for products offered through non-depository entities, including retail outlets.

4) Your testimony states, on one hand, that most of the small dollar, short-term credit products offered by nonbank lenders are inherently abusive products and should not be allowed. However, it also states that where these products are offered, state officials and the CFPB have adequate authority to regulate these products and services and the companies that provide them. How do you reconcile these two seemingly conflicting views?

   Response: Our supervisory experience with products such as payday loans, tax refund anticipation loans (RALs), and automobile title loans, is that they are based on a business model that is not sustainable, as they often reflect excessive fees, repetitive use, high default rates, and failed efforts at compliance with applicable laws and regulations. Because these products frequently reflect abusive lending practices, the OCC has clearly and consistently reminded the institutions that it supervises of the compliance, legal, and reputation risks posed by these products. For those entities that choose to offer these products, the OCC makes clear that they must do so in a safe and sound, and legally compliant, manner.

   The OCC believes that Congress provided sufficient statutory authority to the CFPB so that it can carry out its mission of protecting all consumers. The CFPB is authorized to issue rigorous, uniform, and nationally-applicable protection standards for consumer financial products and services, without regard to whether these products and services are offered by banks, nonbanks, or Federal savings associations, nor with regard to whether the institutions are supervised by Federal or state regulators.

Questions for the Record from Rep. Blaine Luetkemyer (MO-9)
Subcommittee on Financial Institutions, Committee on Financial Services,
U.S. House of Representatives
Hearing held on July 24, 2012, entitled "Examining Consumer Credit Access Concerns, New Products and Financial Regulations"

Questions for Grovetta Gardineer, Deputy Comptroller for Compliance Policy, Office of the Comptroller of the Currency

1) Does OCC agree that tens of millions of Americans, as many as half of all families, cannot obtain small, short-term unsecured personal loans from the federal depository institutions you regulate and from state chartered depositories when they need them, and who must therefore periodically rely on credit products from state licensed nonbank lenders? If not, do you have empirical data showing a lack of need?

   Response: The OCC recognizes the importance of providing underserved consumers greater access to innovative and affordable financial products and services. The OCC does not collect data on this type of lending for national banks and Federal savings associations, the depository institutions that we supervise. Moreover, we are unable to comment on the activities of institutions or entities that we do not supervise.

2) Your testimony states that OCC has encouraged depositories "through many routes" to offer innovative and affordable financial products and services. What have these "routes" been, and why don't most depositories offer such products? For the institutionsthat do offer these products, why aren't the most underserved consumers given access to these products?

   Response: The OCC provides guidance to the depository institutions that we supervise through a variety of methods, including by issuing OCC Bulletins and Advisory Letters, by participating in industry conferences and forums, and through in-person meetings with bankers to discuss the depository institution's efforts to offer products and services to underserved markets. This guidance and outreach establishes expectations that national banks and Federal savings associations will offer financial products and services in a safe and sound manner, and in compliance with consumer protection laws and regulations. Additionally, the OCC encourages these depository institutions to offer innovative and affordable financial products and services, as doing so will be considered when the agency evaluates the institution's Community Reinvestment Act (CRA) performance.

   Although each depository institution's Board of Directors and executive management team have discretion in terms of the products and services offered to the public, the choices made still must be consistent with the institution's approved business plan, its risk management capacities, and the expertise of its personnel. Moreover, the Board and management must consider the competition to be faced before offering new products or services. Banks and Federal savings associations that offer credit products, including small-dollar loans, may require that customers have existing depository relationships with them as a condition of extending credit. Many consumers choose to not have traditional banking relationships or deposit accounts, opting instead for products offered through non-depository institutions, including retail outlets.

3) Does OCC believe that CFPB has ample statutory authorities under federal law to adequately protect underserved consumers from abusive lending practices by nonbank lenders? If not, what regulatory authority has Congress failed to provide?

   Response: The OCC believes that Congress provided sufficient statutory authority to the CFPB so that it can carry out its consumer-protection mission. The CFPB is authorized to issue rigorous, uniform, and nationally applicable protection standards for consumer financial products and services, without regard to whether these products and services are offered by banks, nonbanks, or Federal savings associations, nor with regard to whether the institutions are supervised by Federal or state regulators.

4) Does OCC believe that consumers clearly understand the calculation and meaning of APR for short-term loans (one year or less)? Do you disagree that an APR disclosure can be confusing and distort what many people will think is the actual cost of a short-term loan of a year or less? Given that some lenders charge additional fees not included in APR calculations, are APRs somewhat misleading? Are all credit alternatives including overdraft fees charged by OCC-regulated banks, required to be disclosed in APR terms?

   Response: Under current consumer protection laws and regulations, depository institutions are required to disclose all fees associated with the extension of credit. Consumer loan disclosures are complex and may be difficult for the average consumer to understand. The CFPB has rulemaking authority for the Truth in Lending Act (TILA). TILA promotes the informed use of credit by consumers, including by requiring that creditors make accurate disclosures of the cost and terms of consumer loans. The CFPB is in the process of updating Regulation Z, the rule which implements TILA, and additionally, is developing new disclosure statements intended to provide consumers with the ability to compare credit products offered by different institutions.

Exhibit 1

STATEMENT of

WILLIAM M. ISAAC

Former Chairman, Federal Deposit Insurance Corporation,

July 24, 2012

I commend the subcommittee for conducting this hearing on the important issue of access to credit for cash-strapped consumers and small businesses. I wish I were able to participate in the hearing in person and would appreciate my written statement being made part of the record.

I am former Chairman of the Federal Deposit Insurance Corporation; Senior Managing Director & Global Head of Financial Institutions for FTI Consulting; and Chairman of Fifth Third Bancorp. The opinions I express are my own and do not necessarily reflect the views of these organizations.

I appreciate Congressmen Luetkemeyer and Baca taking the time to fashion an innovative approach to increasing the flow of small loans to individuals and businesses. As reported in the "findings" of their bipartisan bill, studies by the FDIC and others "have shown that roughly half of all American families . . . are literally living paycheck-to-paycheck." I think we can all agree that we need more education in financial literacy, and we need more stable sources of credit.

I believe the proposed Consumer Credit Access, Innovation, and Modernization Act's creation of optional federal chartering for non-bank lenders is an innovative approach that could yield many benefits. It's difficult for me to see a downside to the bill.

The legislation would create an optional federal charter for non-depository lenders at the Office of the Comptroller of the Currency, which has chartered national banks for 150 years. The legislation instructs the Comptroller to focus on the "true cost" of the loan product rather than the annual percentage rate (APR) and facilitates the offering of short-term lending products best suited to the needs of borrowers, beyond payday lending.

I have long been critical of interest-rate ceilings that restrict or effectively prohibit short-term personal loans from banks and non-bank lenders. While the APR provides useful information to consumers when comparison shopping for loans, it is inappropriate to use it to cap interest rates on short-term lending.

Hearing about a 390% APR for a payday loan, for example, is at first blush jarring. But after thinking about it more carefully, one recognizes the value proposition. The APR on a payday loan is much lower than the APR on a typical fee for a bounced check or for a late mortgage or credit card payment, or the fee for getting your electricity turned back on after it has been cut off due to late payments. The loan fee is definitely much less than the lost income when you can't get to work because you can't afford to get your car repaired. These are typical of the choices facing customers who take out a short-term loan.

The plain truth is that tens of millions of people from all walks of life decide their best option is to do business with non-bank, short-term lenders. The terms are very easy to understand – you borrow $200 and you pay back $230 two weeks later. Critics claim this amounts to predatory lending, a charge I don't understand. The loans are unsecured and if you default, there is not much the lender can do except not grant another loan. The lender cannot evict you from your house or take your car. It's not economic for the lender to even file a collection suit.

The legislation addresses directly the criticism that payday loans are never really repaid – just renewed over and over. I believe this criticism is blown out of proportion, particularly in comparison to other types of borrowing. The high APRs and short maturities on payday loans make it impossible to keep the rollover game going for very long, in contrast to credit card and other revolving debt.

In any event, to the extent rollover loans are a problem, it is largely because state regulatory barriers effectively prohibit lenders from offering borrowers more suitable options, such as installment loans, which most lenders would very much like to do. As John Berlau of the Competitive Enterprise Institute noted in a recent paper, "In California, a nonbank lender can make a payday loan in the maximum amount of $300 or an installment loan in the minimum of $2,500. This leaves a big gap in the middle."

The Luetkemeyer-Baca legislation will help bridge this gap by allowing safe, regulated and innovative loans to flow across state lines and benefit consumers and small businesses. It will do so without exposing taxpayers to any risk, as these federally chartered and regulated, short-term lenders will be required to raise their capital and funding entirely from private sector sources without the benefit of any federal guarantee.

The financial record of non-bank short-term lenders over recent decades has been impressive in good times and bad. Short-term lending is relatively risky, but the risks are ameliorated due to diversification in the portfolio, and the risks are priced into the fee structure. It is quite feasible to maintain high loan loss reserves and strong capital against short-term loans and achieve good returns if the short-term lender is an efficient operator.

Reducing unnecessary regulatory barriers will increase competition for bank and non-bank lenders and will foster sustainable sources of credit for consumers and small businesses. This will in turn stimulate economic growth and job creation. The Luetkemeyer-Baca bill appears to be an important step in the right direction and deserves a fair hearing and serious consideration.

Responses of John Munn, Director, Banking and Finance, State of Nebraska Department of Banking and Finance (October 3, 2012)

Congressman Joe Baca
Financial Institutions & Consumer Credit Subcommittee Hearing – Examining Consumer Credit Access Concerns, New Products, and Federal Regulations
Questions for the Record

Questions for John Munn, Director, Banking and Finance, State of Nebraska Department of Banking and Finance

1) **Do you agree that there is a serious 'credit crisis' for underserved consumers throughout the country, or at least a major public policy problem because there is a clear lack of credit alternatives for millions of Americans as all major studies appear to indicate? If so, what are you and other state banking officials doing to address this problem?**

I agree that the ability to provide a broad range of consumers with sustainable credit is an ongoing challenge for the financial services industry. Addressing this need requires increased understanding the complex components of this problem. As the FDIC's most recent National Survey of Unbanked and Underbanked Households notes,

> *"Different subgroups among unbanked and underbanked households have different characteristics and varying levels of demand for banking services. Understanding these differences could lead to the development of products and strategies that more effectively engage these households."*[1]

Clearly, this must be an ongoing effort by all stakeholders. However, as the recent financial crisis illustrates, credit that is not sustainable and not backed by a sound infrastructure of oversight and consumer protection ends up creating a much larger problem.

State regulators continue to work with our regulated entities, other local stakeholders, and federal regulators to explore avenues for expanding credit availability responsibly. There is no "one size fits all" solution to this problem, and banks and credit unions have explored – and continue to explore – new avenues for serving underserved borrowers.

A few years ago, the FDIC launched a Small Dollar Loan Program. Institutions from across the country participated in this initiative, which sought to support banks' efforts to offer short term loans that provided an affordable alternative to higher cost products. Loan offered under this product were for $2,500 or less, with a minimum term of 90 days, and were capped at 36 percent APR. Underwriting requirements and processes were streamlined.

[1] 2011 FDIC National Survey of Unbanked and Underbanked Households (September 2012) at 6.

In addition to offering small dollar loans, banks are offering products specifically designed to help the underserved improve their financial condition to a point where they are not reliant on other, more costly sources of short term credit. Banks have developed loans where the proceeds are deposited into an account at the bank. The money never leaves the bank. Every month the payment is transferred automatically from the deposited money at the bank, to the loan account as a payment. Over the course of the year, a $500 loan may be paid off, and the loan is reported as "Paid Satisfactory" to the credit bureaus. The money is then able to be used at the discretion of the borrower, with the idea that they have now learned how to build wealth, and have a better credit rating in the process. The money can be used to pay off a pay day loan, and perhaps then the individual would qualify for a credit card which is considerably less costly than the pay day loan.

As the example above illustrates, unlike payday lenders, banks will report credit history to the credit reporting agencies. This provides customers an opportunity to improve their credit history over time, making it easier for them to access a broader range of affordable credit products.

Finally, state regulators have worked with regulated institutions who seek to make a concerted effort to reach more underbanked communities and individuals with the placement of branch locations, multi-lingual staff and materials, and community outreach.

2) Millions of underserved consumers who lack adequate local credit alternatives are obtaining the credit they need, often at exorbitant prices, from unregulated offshore internet lenders. Given this, shouldn't we be focusing on ways to better provide credit options in Nebraska and other states, including access to internet loans from regulated, domestic lenders, especially given both the problems with rogue offshore operators and the growing trend of handling financial matters via the internet?

Continuing to develop responsible ways of expanding credit availability is important. As your question notes, the ubiquity of the Internet cannot be ignored. In the area of financial services, the Internet has brought greater efficiency and flexibility, but it has also, in certain respects, created a new avenue for skirting the rules and avoiding accountability that is so necessary in providing financial services. As I testified during the hearing, certain states, including my home state of Nebraska, have identified this as a concern and have, accordingly, placed certain rules and restrictions on internet transactions.

3) In your testimony, you state that Congress has only established federal charters when there is a compelling public purpose. The current economic climate, the sustained high unemployment, and the housing crisis have only made things harder on underserved communities and families. Recent studies have shown that more and more families are living paycheck to paycheck. In June, the Federal Reserve said the growing credit divide is one of the biggest factors in our slow

recovery. Do you not agree that the need for affordable, safe credit, especially in this climate, is a compelling public purpose?

I agree that the need for affordable, safe credit is a challenge for policy makers. However, this is a complex problem driven by multiple factors, and I do not believe that a federal charter that undermines state authority is the right solution. The current economic environment and slow recovery has made managing personal finances more challenging for many families. However, in these cases, this is not solely or necessarily an access to credit problem. This is a problem with the economy. Greater access to credit for people living paycheck to paycheck might only increase the harm to consumers and generate more consumer protection issues.

I and my fellow state banking commissioners would welcome the opportunity to work with Congress, federal regulators, and other stakeholders to identify and implement appropriate solutions.

Questions for The Honorable John Munn, Director, Banking and Finance, State of Nebraska Department of Banking and Finance, on behalf of the Conference of State Bank Supervisors

1) **Do you believe that there is a large number of underserved consumers in Nebraska who need, but are unable to obtain, small, unsecured personal loans from traditional banking institutions and who lack adequate credit alternatives? Is so, why are banks generally not making such loans, and why are other adequate alternatives not available from nonbank lenders?**

Our Department conducts consumer outreach and education throughout the state and I, as Director of the Department, spend a great deal of my time meeting with regulated entities and other stakeholders throughout the state. From these activities, I know that there are underserved consumers in Nebraska. However, with 281 banks and credit unions in the state (including close to 200 state-chartered banks and credit unions) and 524 non-bank lenders (including payday lenders, check cashing companies, installments lenders, sales finance companies, and mortgage lenders), Nebraska has a diverse range of lenders to meet the needs of the state's 1.8 million residents.

Consumers in Nebraska have access to products similar to those that are covered by H.R. 6139. However, policy makers in Nebraska have determined that certain protections are needed to help ensure that such products are not prone to abuse and that borrowers are not set up for failure. Specifically, as I testified, payday loans are limited to no more than $500, cannot exceed 34 days in loan term, cannot have fees in excess of $15 per $100, and borrowers are limited to no more than two outstanding loans at a time, with no rollovers.

Poor credit histories and/or a lack of credit history can be one reason that these consumers have limited access to sustainable credit. However, institutions that my department supervises are aware of this need and have sought to expand such lending. As I mentioned in my testimony, several credit unions in Nebraska offer a "QuickCash" product, which is small-dollar loan product, with a maximum APR of 18%, 60 days to pay off the loan, no prepayment penalty and no credit report required to qualify.

2) **What types of small, short-term loan products are available from bank and nonbank lenders to underserved consumers in Nebraska? Please advise as to how many of each category of lenders are licensed to make each type of loan, and what applicable limitations or requirements apply to the term of such loans as well as the total number and dollar volume for each such category of loans broken down by whether the loan was made by a bank or nonbank lender. Please note what limitations, if any, apply to making such loans via the Internet. Please also advise as to the percentage of underserved consumers who are now using offshore lenders. Please have CSBS provide the Subcommittee with the same type data requested for other states.**

The availability of small, short-term loan products in Nebraska is generally a function of qualification. In rural Nebraska, where personal lending is most often delivered by community banks and credit unions, the qualification is usually that of "being known" in the community. In these situations, credit bureau reports are often not a good source of information on an applicant's creditworthiness. The difficulty of "being known" in Nebraska's larger communities is a primary reason that most of the payday lenders we license are located in more heavily populated areas of the state. For lenders other than payday lenders in these areas, more reliance can be placed upon an applicant's credit report.

It would be extremely difficult to aggregate personal loan data for Nebraska because, in addition to the numbers of institutions reported in response to your first question, many banks operate in Nebraska under charter from other states (e.g., Bank of the West) or as branches of a national banks chartered outside of Nebraska (e.g., Wells Fargo Bank, NA). As to the term of loans, Nebraska payday loans may not exceed 34 days; longer personal loan terms are commonly available. I cannot think of a method for identifying consumers who are now using offshore lenders, underserved or otherwise. The only time that we are aware of this activity is when a Nebraskan complains to us that their identity was stolen in the process of using the Internet to connect to an offshore lender or if an offshore lender continues to charge a Nebraskan's checking account electronically after a payday loan is repaid in full.

Neither I, my department, nor CSBS has a 50-state database with the state-specific information for other states. While it does not fully answer your question, I am attaching an excerpt from the CSBS Profile of State-Chartered Banking, which provides some information about the types of non-bank lenders licensed by the various states. CSBS staff would be happy to work with you and your staff to help gather the data requested. Please contact Margaret Liu (mliu@csbs.org; 202.728.5749) at CSBS if you or your staff would like to work together on gathering this information.

3) **In their respective testimonies, OCC and the Center for Responsible Lending essentially say that short-term, small-dollar products are inherently abusive and should not be allowed to be offered to underserved consumers. Does CSBS agree with this statement?**

As an organization, the Conference of State Bank Supervisors has not taken a position on whether short-term, small-dollar products are abusive or whether such products should be offered to underserve consumers. Various states, through their elected legislatures, have made decisions about whether and how such products should be made available within those states. State regulators, including CSBS members, are then responsible for implementing and enforcing those state requirements. CSBS believes that this decision making should remain at the state level.

4) **You have stated the H.R. 6139 provides virtually no product limits and controls but the legislation contains significant ones, including the prohibition of loans with terms of 30 days or less and ability-to-repay and prepayment penalty provisions.**

Do you recognize that this legislation gives OCC full regulatory authority over these federally-chartered nonbank lenders, including the power to approve all loan products, and also subjects the institutions to federal consumer financial protection laws and CFPB's full regulatory powers?

The plain language of H.R. 6139 gives the OCC regulatory authority over these federally chartered nonbank lenders. However, the product approval provisions – which effectively deem the product approved unless the OCC takes affirmative action – provide little in the way of consumer protections. Regarding the question of H.R. 6139 and the CFPB, entities that might be eligible for this new proposed federal charter already are within the CFPB's jurisdiction. However, under current law, the CFPB's regulatory authority complements, without supplanting, existing state regulation and oversight.

5) **Your testimony expresses concerns that state and federal regulatory partnerships would be irreparably damaged by this legislation despite the fact that it includes a major role for states by providing state attorneys general investigative and enforcement power and preserves all of extensive enforcement authorities of state officials under federal consumer financial protection laws. The legislation also requires OCC to consult and coordinate activities with state officials, including state bank supervisors. How does his hamper state and federal regulatory partnerships, especially when CFPB enforces the extensive array of federal consumer financial protection laws and it has already established strong working relationships with state regulators?**

The bill undermines state authority and state-federal collaboration in several significant ways. First, companies chartered under this bill would be able to avail themselves of the same preemption to which national banks are entitled. Second, the bill explicitly preempts state laws such as licensing laws, which are a key means for states to hold such companies accountable for their business practices. Finally, the legal construct underpinning the CFPB is based on state-federal collaboration: in addition to providing that federal law provides a floor not a ceiling to state consumer protection, Title X of Dodd-Frank requires not just consultation and coordination with state regulators, but it reflects an overall recognition of the important role of state regulators in overseeing financial services providers in their states.

6) **Given your opposition to H.R. 6139, what solutions, if any, do you propose to ensure that Americans in need can quickly obtain an adequate variety of affordable credit alternatives?**

Our members work daily with their state-chartered and state-regulated financial institutions to explore means of expanding access to affordable credit. We recognize that community-based institutions are central to meeting the credit needs of local communities, and we are sensitive to the challenging business environment that such institutions, particularly community banks, face currently.

To enhance these institutions' ability to serve the credit needs of a broad segment of their communities, our institutions need a regulatory environment that supports such lending – an environment that balances regulation and common sense and that encourages innovation and creativity, while still adhering to robust safety and soundness and compliance regulation. We work constantly with our federal regulatory partners as well as our regulated institutions to achieve this balance.

Institutions Supervised - Part I

	Commercial Banks			Foreign Bank Organizations and Foreign Agencies		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Alabama SBD	Yes	115	$215,584	Yes	0	N/A
Alaska	Yes	3	$1,782	Yes	0	N/A
Arizona	Yes	18	$5,112	No	N/A	N/A
Arkansas SBD	Yes	96	$46,917	No	N/A	N/A
California DFI	Yes	176	$262,364 [1]	Yes	31	$24,928
Colorado DOB	Yes	75	$35,499	No	N/A	N/A
Connecticut	Yes	14	$3,160	Yes	4	$72,790
Delaware	Yes	10	$25,443	Yes	1	Data not collected
District of Columbia	Yes	2	$860	No	N/A	N/A
Florida	Yes	158	$56,505	Yes	35	$14,336
Georgia	Yes	198	$255,786	Yes	4	N/A
Hawaii	Yes	5	$34,057	Yes	0	N/A
Idaho	Yes	16	$6,995	Yes	0	$0
Illinois	Yes	382	$200,626	Yes	11	$66
Indiana DFI	Yes	85	$35,034	No	N/A	N/A
Iowa	Yes	301	$52,500	No	N/A	N/A
Kansas	Yes	237	$30,206	No	N/A	N/A
Kentucky	Yes	154	$46,334	Yes	0	N/A
Louisiana	Yes	114	$58,306	Yes	0	N/A
Maine BFI	Yes	5	$2,491	Yes	0	N/A

Institutions Supervised - Part I

	Commercial Banks			Foreign Bank Organizations and Foreign Agencies		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Maryland	Yes	45	$24,166	No	N/A	N/A
Massachusetts	Yes	17	$240,079	Yes	0	N/A
Michigan	Yes	104	$45,252	Yes	0	N/A
Minnesota	Yes	293	$39,406	No	N/A	N/A
Mississippi	Yes	71	$43,041	No	N/A	N/A
Missouri	Yes	273	$92,778 [2]	N/A	N/A	N/A
Montana	Yes	65	$20,763	No	N/A	N/A
Nebraska	Yes	179	$24,393	No	N/A	N/A
Nevada FID	Yes	13	$8,212	Yes	0	N/A
New Hampshire	Yes	9	$3,263	N/A	N/A	N/A
New Jersey	Yes	44	$26,358	Yes	36	N/A
New York	Yes	73	$565,106	Yes	101	$1,597,288
North Carolina	Yes	65	$252,368	Yes	0	N/A
North Dakota	Yes	75	$14,196	Yes	0	N/A
Ohio	Yes	92	$134,988	No	N/A	N/A
Oklahoma SBD	Yes	169	$37,605	Yes	0	N/A
Oregon	Yes	29	$22,652	Yes	2	N/R
Pennsylvania	Yes	95	$77,107	Yes	0	N/A
Puerto Rico	Yes	9	$67,706 [3]	Yes	32	$43,934 [4]
Rhode Island	Yes	7	$6,185	No	N/A	N/A

Institutions Supervised - Part I

	Commercial Banks			Foreign Bank Organizations and Foreign Agencies		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
South Carolina BFI	Yes	45	$21,997	No	N/A	N/A
South Dakota	Yes	61	$19,053	No	N/A	N/A
Tennessee	Yes	155	$42,947	No	N/A	N/A
Texas DOB	Yes	303	$167,902	Yes	10	$92,987
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	Yes	28	$100,997	Yes	0	N/A
Vermont	Yes	5	$3,657	Yes	0	N/A
Virginia	Yes	79	$56,717	No	N/A	N/A
Washington	Yes	50	$38,199	Yes	2	$439
West Virginia	Yes	50	$21,490	Yes	0	N/A
Wisconsin	Yes	201	$45,230	No	N/A	N/A
Wyoming	Yes	26	$5,277	No	N/A	N/A
	YES / NO	Total	Total	YES / NO	Total	Total
	51 / 0	4,894	$3,644,650	29 / 20	269	$1,846,768

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Does not include the assets of one bank that voluntarily surrendered its license on 1/4/12 and did not submit a 12/31/2011 call report.

[2]Excludes MIB

[3]Includes $2,361,819 that represent assets of unit of commercial banks identified as international banking entities authorized to conduct banking business with foreign people only.

[4]Represents total assets of international bank entities, including $2,361,819 that also are included in the commercial banks total assets.

Institutions Supervised - Part II

	Savings Banks/Savings & Loans			Banker's Banks		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Alabama SBD	Yes	0	N/A	Yes	0	N/A
Alaska	Yes	1	$307	No	N/A	N/A
Arizona	Yes	0	N/A	Yes	0	N/A
Arkansas SBD	No	N/A	N/A	Yes	N/A	N/A
California DFI	Yes	0	N/A	Yes	1	$615
Colorado DOB	No	N/A	N/A	Yes	1	$367
Connecticut	Yes	21	$20,018	Yes	1	$110
Delaware	Yes	1	$544	Yes	N/A	N/A
District of Columbia	Yes	0	N/A	No	N/A	N/A
Florida	Yes	0	N/A	Yes	1	$247
Georgia	Yes	1	$1,087	Yes	0	N/A
Hawaii	Yes	0	N/A	Yes	0	N/A
Idaho	Yes	0	$0	Yes	0	$0
Illinois	Yes	37	$6	Yes	0	N/A
Indiana DFI	Yes	7	$1,907	Yes	0	N/A
Iowa	Yes	0	N/A	Yes	0	N/A
Kansas	Yes	0	N/A	Yes	0	N/A
Kentucky	Yes	0	N/A	Yes	1	$70
Louisiana	Yes	7	$1,701	Yes	0	N/A
Maine BFI	Yes	15	$11,027	Yes	0	N/A

Institutions Supervised - Part II

	Savings Banks/Savings & Loans			Banker's Banks		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Maryland	Yes	2	$178	Yes	1	$70
Massachusetts	Yes	116	$65,128	No	N/A	N/A
Michigan	Yes	2	$1,182	Yes	0	N/A
Minnesota	Yes	0	N/A	Yes	1	$564
Mississippi	Yes	0	N/A	Yes	0	N/A
Missouri	Yes	6	$405	Yes	1	$317
Montana	Yes	0	N/A	No	N/A	N/A
Nebraska	Yes	1	$1	Yes	1	$37
Nevada FID	Yes	0	N/A	No	N/A	N/A
New Hampshire	Yes	10	$4,409	No	N/A	N/A
New Jersey	Yes	29	$34,402	No	N/A	N/A
New York	Yes	21	$70,238	No	N/A	N/A
North Carolina	Yes	15	$3,425	Yes	0	N/A
North Dakota	Yes	0	N/A	Yes	1	$5,375
Ohio	Yes	46	$9,903	Yes	1	$95
Oklahoma SBD	Yes	1	$10	Yes	1	$190
Oregon	Yes	0	N/A	No	N/A	N/A
Pennsylvania	Yes	49	$62,905	Yes	1	$605
Puerto Rico	No	N/A	N/A	No	N/A	N/A
Rhode Island	Yes	1	$941	No	N/A	N/A

Institutions Supervised - Part II

	Savings Banks/Savings & Loans			Banker's Banks		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
South Carolina BFI	Yes	2	$179	No	N/A	N/A
South Dakota	No	N/A	N/A	No	N/A	N/A
Tennessee	Yes	0	N/A	Yes	0	N/A
Texas DOB	No	N/A	N/A	Yes	1	$2,508
Texas SML	Yes	31	$9,500	N/A	N/A	N/A
Utah DFI	Yes	0	N/A	No	N/A	N/A
Vermont	Yes	2	$338	No	N/A	N/A
Virginia	Yes	1	$10	Yes	1	$144
Washington	Yes	8	$6,035	Yes	0	N/A
West Virginia	N/A	N/A	N/A	Yes	0	N/A
Wisconsin	Yes	16	$4,277	Yes	1	$417
Wyoming	Yes	0	N/A	No	N/A	N/A
	YES 46 / NO 5	Total 449	Total $310,065	YES 55 / NO 16	Total 16	Total $11,730

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

Institutions Supervised - Part III

	Non-Depository Trust Companies			Industrial Loan Corporations		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Alabama SBD	Yes	3	$3,130	Yes	0	N/A
Alaska	Yes	2	$1,759	N/A	N/A	N/A
Arizona	Yes	3	$14,780	No	N/A	N/A
Arkansas SBD	Yes	2	$349	No	N/A	N/A
California DFI	Yes	8	$85,716	Yes	9	$8,614
Colorado DOB	Yes	7	N/A	Yes	0	N/A
Connecticut	Yes	2	$26,339	No	N/A	N/A
Delaware	Yes	28	$4,140	Yes	N/A	N/A
District of Columbia	Yes	0	N/A	No	N/A	N/A
Florida	Yes	12	$25,810	No	N/A	N/A
Georgia	Yes	1	$506	No	N/A	N/A
Hawaii	Yes	0	N/A	Yes	1	$488
Idaho	Yes	0	$0	No	N/A	N/A
Illinois	Yes	15	$1	No	N/A	N/A
Indiana DFI	Yes	8	$5,782	Yes	5	$164
Iowa	Yes	1	$1	No	N/A	N/A
Kansas	Yes	10	$29,365	No	N/A	N/A
Kentucky	Yes	4	$7,906	Yes	32	N/A
Louisiana	Yes	1 [1]	$8	No	N/A	N/A
Maine BFI	Yes	11	$28,463	Yes	0	N/A

Institutions Supervised - Part III

	Non-Depository Trust Companies			Industrial Loan Corporations		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Maryland	Yes	6	$206,079	No	N/A	N/A
Massachusetts	Yes	0	N/A	No	N/A	N/A
Michigan	No	N/A	N/A	No	N/A	N/A
Minnesota	Yes	3	$0	Yes	1	$30
Mississippi	Yes	1	$0	No	N/A	N/A
Missouri	Yes	6	$13,037	N/A	N/A	N/A
Montana	Yes	1	$2	No	N/A	N/A
Nebraska	Yes	3	$2,813	No	N/A	N/A
Nevada FID	Yes	27	$109	Yes	5	$16,692
New Hampshire	Yes	24	$622	N/A	N/A	$0
New Jersey	Yes	8	$1,455	No	N/A	N/A
New York	Yes	12	$4,630	No	N/A	N/A
North Carolina	Yes	8	$23	Yes	0	N/A
North Dakota	Yes	3	$18	No	N/A	N/A
Ohio	Yes	2	$13	No	N/A	N/A
Oklahoma SBD	Yes	9	$4,566	No	N/A	N/A
Oregon	Yes	3	$9,837	No	N/A	N/A
Pennsylvania	Yes	19	$722,470	No	N/A	N/A
Puerto Rico	Yes	1	$43	No	N/A	N/A
Rhode Island	Yes	2	$10	No	N/A	N/A

Institutions Supervised - Part III

	Non-Depository Trust Companies			Industrial Loan Corporations		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
South Carolina BFI	Yes	2	$278	No	N/A	N/A
South Dakota	Yes	64	$108,785	No	N/A	N/A
Tennessee	Yes	9	$15,052	Yes	0	N/A
Texas DOB	Yes	22	$20,438	No	N/A	N/A
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	Yes	2	$443	N/A	19	$112,936
Vermont	Yes	3	$1,288	Yes	0	N/A
Virginia	Yes	3	N/A	Yes	5	N/A
Washington	Yes	8	$29,263	No	N/A	N/A
West Virginia	N/A	N/A	N/A	N/A	N/A	N/A
Wisconsin	Yes	3	$3,407	No	N/A	N/A
Wyoming	Yes	6	$1,430	No	N/A	N/A
	YES / NO	Total	Total	YES / NO	Total	Total
	49 / 1	378	$1,380,166	14 / 32	77	$138,923

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Private trust company

Institutions Supervised - Part IV

	One Bank Holding Companies			Multi-Bank Holding Companies			Credit Unions		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Alabama SBD	Yes	N/A [1]	N/A	Yes	N/A [1]	N/A	No	N/A	N/A
Alaska	Yes	3	N/A	Yes	0	N/A	Yes	1	$788
Arizona	Yes	N/A	N/A	Yes	7	N/A	Yes	21	$6,365
Arkansas SBD	Yes	74	N/A	Yes	12	N/A	No	N/A	N/A
California DFI	Yes	79	$206,587	Yes	5	$14,644 [2]	Yes	158	$73,077
Colorado DOB	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Connecticut	Yes	11	N/A	Yes	2	N/A	Yes	34	$3,529
Delaware	Yes	N/A	N/A	Yes	N/A	N/A	No	N/A	N/A
District of Columbia	Yes	0	N/A	Yes	0	N/A	No	N/A	N/A
Florida	No	N/A	N/A	No	N/A	N/A	Yes	74	$21,380
Georgia	Yes	216	N/A	Yes	11	N/A	Yes	60	$12,500
Hawaii	Yes	2	$18,023	Yes	1	$78,118	Yes	0	N/A
Idaho	Yes	10	$4,083	Yes	0	$0	Yes	38	$2,447
Illinois	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Indiana DFI	Yes	0	N/A	Yes	0	N/A	Yes	46	$9,543
Iowa	Yes	220	$37,000	Yes	35	$39,800	No	N/A	N/A
Kansas	Yes	199	N/A	Yes	26	N/A	No	N/A	N/A
Kentucky	Yes	110	$32,137	Yes	15	$14,736	Yes	25	$1,845
Louisiana	Yes	92	$40,058	Yes	3	$631	Yes	45	$1,448
Maine BFI	Yes	12	$9,318	Yes	0	N/A	Yes	12	$1,517

Institutions Supervised - Part IV

	One Bank Holding Companies			Multi-Bank Holding Companies			Credit Unions		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Maryland	Yes	30	N/A	Yes	2	$17,725	Yes	9	$4,300
Massachusetts	Yes	57	$275,699	Yes	2	$838	Yes	86	$14,933
Michigan	No	N/A	N/A	No	N/A	N/A	Yes	195	$31,100
Minnesota	No	N/A	N/A	No	N/A	N/A	Yes	89	$8,427
Mississippi	No	N/A	N/A	No	N/A	N/A	Yes	25	$647
Missouri	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Montana	No	N/A	N/A	No	N/A	N/A	Yes	8	$1,769
Nebraska	Yes	0	N/A	Yes	215	N/A	Yes	19	$600
Nevada FID	Yes	4	N/A	Yes	N/A	N/A	Yes	10	$3,871
New Hampshire	N/A	0	N/A	N/A	0	N/A	Yes	13	$5,017
New Jersey	Yes	31	N/A	No	0	N/A	Yes	19	$611
New York	Yes	32	$364,875 [3]	Yes	9	$52,136 [3]	Yes	20	$6,095
North Carolina	Yes	35	N/A	Yes	4	N/A	No	N/A	N/A
North Dakota	No	N/A	N/A	No	N/A	N/A	Yes	25	$1,962
Ohio	Yes	56	N/A	Yes	2	N/A	Yes	175	$12,441
Oklahoma SBD	Yes	114	$21,408	Yes	9	$7,340	Yes	19	$3,985
Oregon	Yes	20	N/A	Yes	0	N/A	Yes	18	$9,801
Pennsylvania	Yes	85	N/A	Yes	23	N/A	Yes	63	$9,472
Puerto Rico	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Rhode Island	Yes	5	$7,641	No	N/A	N/A	Yes	10	$4,204

Institutions Supervised - Part IV

	One Bank Holding Companies			Multi-Bank Holding Companies			Credit Unions		
	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
South Carolina BFI	No	N/A	N/A	No	N/A	N/A	Yes	14	$499
South Dakota	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Tennessee	No	N/A	N/A	No	N/A	N/A	Yes	101	$8,002
Texas DOB	Yes	192	$70,069	Yes	24	$99,962	No	N/A	N/A
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	Yes	32	$306,793 [4]	Yes	8	$2,698,224 [5]	Yes	45	$1,500
Vermont	Yes	4	$3,424	N/A	N/A	N/A	Yes	21	$1,072
Virginia	Yes	45	$39,765	Yes	1	$2,167	Yes	55	$6,212
Washington	Yes	N/A	N/A	Yes	N/A	N/A	Yes	N/A	N/A
West Virginia	Yes	39	$17,113	Yes	2	$6,528	Yes	4	$150
Wisconsin	Yes	170	N/A	Yes	14	N/A	No	N/A	N/A
Wyoming	Yes	17	N/A	No	N/A	N/A	No	N/A	N/A
	YES 37 / NO 13	Total 1,996	Total $1,455,993	YES 33 / NO 16	Total 432	Total $3,032,849	YES 36 / NO 15	Total 1,557	Total $271,109

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Examination Authority

[2]DFI does not supervise all licensees under the holding company.

[3]Assets of 2 companies not included as they were not found.

[4]Includes traditional BHCs and the parents of Industrial Banks, exempt under the BHC Act but BHCs under State statutes.

[5]Includes traditional BHCs and Industrial Bank parent companies.

Institutions Supervised - Part V

	Credit Card Banks			Title Lenders		
	Supervise	Number	Assets (Millions)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Alabama SBD	Yes	0	N/A	Yes	1,153	N/A
Alaska	No	N/A	N/A	No	N/A	N/A
Arizona	No	N/A	N/A	Yes	90	N/A
Arkansas SBD	No	N/A	N/A	No	N/A	N/A
California DFI	No	N/A	N/A	No	N/A	N/A
Colorado DOB	No	N/A	N/A	No	N/A	N/A
Connecticut	Yes	0	N/A	Yes	0	N/A
Delaware	Yes	3	$68,015	Yes	23	$0
District of Columbia	Yes	0	N/A	No	N/A	N/A
Florida	Yes	0	N/A	No	N/A	N/A
Georgia	Yes	0	N/A	No	N/A	N/A
Hawaii	Yes	0	N/A	No	N/A	N/A
Idaho	Yes	0	$0	Yes	91	$0
Illinois	Yes	0	N/A	No	N/A	N/A
Indiana DFI	No	N/A	N/A	N/A	N/A	N/A
Iowa	No	N/A	N/A	No	N/A	N/A
Kansas	Yes	0	N/A	Yes	16	$100
Kentucky	No	N/A	N/A	No	N/A	N/A
Louisiana	Yes	0	N/A	No	N/A	N/A
Maine BFI	Yes	0	N/A	No	N/A	N/A

Institutions Supervised - Part V

	Credit Card Banks			Title Lenders		
	Supervise	Number	Assets (Millions)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Maryland	No	N/A	N/A	No	N/A	N/A
Massachusetts	No	N/A	N/A	No	N/A	N/A
Michigan	Yes	0	N/A	No	N/A	N/A
Minnesota	Yes	0	N/A	No	N/A	N/A
Mississippi	No	0	N/A	Yes	431	$0
Missouri	N/A	N/A	N/A	Yes	288	$0
Montana	No	N/A	N/A	Yes	1	$10
Nebraska	Yes	1	$2,918	No	N/A	N/A
Nevada FID	Yes	0	N/A	Yes	157	$50
New Hampshire	N/A	N/A	N/A	Yes	3	$0
New Jersey	No	N/A	N/A	No	N/A	N/A
New York	N/A	N/A	N/A	No	N/A	N/A
North Carolina	Yes	0	N/A	No	N/A	N/A
North Dakota	Yes	N/A	N/A	No	N/A	N/A
Ohio	N/A	0	N/A	No	N/A	N/A
Oklahoma SBD	Yes	0	N/A	No	N/A	N/A
Oregon	Yes	0	N/A	Yes	0	$0
Pennsylvania	Yes	0	N/A	No	N/A	N/A
Puerto Rico	No	N/A	N/A	Yes	3	$0
Rhode Island	Yes	0	N/A	No	N/A	N/A

Institutions Supervised - Part V

	Credit Card Banks			Title Lenders		
	Supervise	Number	Assets (Millions)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
South Carolina BFI	No	N/A	N/A	No	N/A	N/A
South Dakota	Yes	3	N/A	Yes	0	$10
Tennessee	Yes	0	N/A	Yes	834	$0
Texas DOB	No	N/A	N/A	No	N/A	
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	N/A	0	N/A	Yes	68	$0 [1]
Vermont	Yes	0	$0	No	N/A	N/A
Virginia	Yes	0	N/A	Yes	19	$50,000 per location not to exceed $500,000
Washington	No	N/A	N/A	No	N/A	N/A
West Virginia	Yes	0	N/A	No	N/A	N/A
Wisconsin	No	N/A	N/A	Yes	N/A [2]	N/A
Wyoming	No	N/A	N/A	No	N/A	N/A
	YES 27 / NO 19	Total 7	Total $70,933	YES 18 / NO 32	Total 3,177	Total $170

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Registration Fee
[2]Included in Licensed Lenders total

Institutions Supervised - Part VI

	Pawnshops			Insurance Agents & Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Alabama SBD	Yes	1,153	N/A	No	N/A	N/A
Alaska	No	N/A	N/A	No	N/A	N/A
Arizona	No	N/A	N/A	No	N/A	N/A
Arkansas SBD	No	N/A	N/A	No	N/A	N/A
California DFI	No	N/A	N/A	No	N/A	N/A
Colorado DOB	No	N/A	N/A	No	N/A	N/A
Connecticut	N/A	N/A	N/A	No	N/A	N/A
Delaware	No	N/A	N/A	No	N/A	N/A
District of Columbia	No	N/A	N/A	No	N/A	N/A
Florida	No	N/A	N/A	No	N/A	N/A
Georgia	No	N/A	N/A	No	N/A	N/A
Hawaii	No	N/A	N/A	No	N/A	N/A
Idaho	No	N/A	N/A	No	N/A	N/A
Illinois	Yes	274	N/A	No	N/A	N/A
Indiana DFI	Yes	63	$50	N/A	N/A	N/A
Iowa	No	N/A	N/A	No	N/A	N/A
Kansas	No	N/A	N/A	No	N/A	N/A
Kentucky	No	N/A	N/A	No	N/A	N/A
Louisiana	Yes	193	N/A	No	N/A	N/A
Maine BFI	No	N/A	N/A	No	N/A	N/A
Maryland	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part VI

	Pawnshops			Insurance Agents & Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Massachusetts	No [1]	N/A	N/A	No	N/A	N/A
Michigan	No	N/A	N/A	Yes	172,954 [2]	NR
Minnesota	No	N/A	N/A	No	N/A	N/A
Mississippi	Yes	223	$0	No	0	N/A
Missouri	No	N/A	N/A	No	N/A	N/A
Montana	No	N/A	N/A	No	N/A	N/A
Nebraska	No	N/A	N/A	No	N/A	N/A
Nevada FID	No	N/A	$0	No	N/A	$0
New Hampshire	No	N/A	N/A	No	N/A	N/A
New Jersey	Yes	26	$1	Yes	0	N/A
New York	No	N/A	N/A	Yes	139,101	N/A [3]
North Carolina	No	N/A	N/A	No	N/A	N/A
North Dakota	No	N/A	N/A	No	N/A	N/A
Ohio	Yes	133	NR	No	N/A	N/A
Oklahoma SBD	No	N/A	N/A	No	N/A	N/A
Oregon	Yes	75	$25	N/A	N/A	N/A
Pennsylvania	Yes	63	N/A	No	N/A	N/A
Puerto Rico	Yes	179	$0	No	N/A	N/A
Rhode Island	No	N/A	N/A	No	N/A	N/A
South Carolina BFI	No	N/A	N/A	No	N/A	N/A
South Dakota	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part VI

	Pawnshops			Insurance Agents & Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Tennessee	No	N/A	N/A	No	N/A	N/A
Texas DOB	No	N/A		No	N/A	
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	No	N/A	N/A	No	N/A	N/A
Vermont	No	N/A	N/A	No	N/A	N/A
Virginia	No	N/A	N/A	No	N/A	N/A
Washington	No	N/A	N/A	No	N/A	N/A
West Virginia	No	N/A	N/A	No	N/A	N/A
Wisconsin	Yes	30	$0	No	N/A	N/A
Wyoming	Yes	46	N/A	No	N/A	N/A
	YES / NO	Total	Total	YES / NO	Total	Total
	12 / 38	2,458	$76	3 / 46	312,055	$0

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Pawnshops are directly licensed and regulated by municipalities. However, the Division is responsible for approving each city and town's pawnbroker regulations, including the maximum interest rates.

[2]Domestic Insurance Companies 167, Foreign Insurance Companies 1464, HMOs 24, BCBS of Michigan, Resident Agencies 6,979, Individual Resident Agents 54,120, Non-Resident Agencies 8,595, Individual Non-Resident Agents 135,975, Solicitors 1,323, Resident Surplus Lines Agencies 136, Individual Resident Surplus Lines Agents 329, Adjusters for the Insured 270, Non-Resident Surplus Lines Agencies 466, Individual Non-Resident Surplus Lines Agents 1,237, Third Party Administrators 390, Insurance Adjusters 9,257, Insurance Counselors 931

[3]There are 1773 companies of which 644 are domestic.

Institutions Supervised - Part VII

	Securities Broker/Dealers & Firms			Technology Service Providers	
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number
Alabama SBD	No	N/A	N/A	No	N/A
Alaska	No	N/A	N/A	No	N/A
Arizona	No	N/A	N/A	No	N/A
Arkansas SBD	No	N/A	N/A	No	N/A
California DFI	No	N/A	N/A	Yes	N/A
Colorado DOB	No	N/A	N/A	Yes	7
Connecticut	Yes	2,385	N/A	Yes	4
Delaware	No	N/A	N/A	No	N/A
District of Columbia	No	N/A	N/A	No	N/A
Florida	No	N/A	N/A	No	N/A
Georgia	No	N/A	N/A	Yes	27 [1]
Hawaii	No	N/A	N/A	No	N/A
Idaho	Yes	1,420 [2]	$0	No	N/A
Illinois	No	N/A	N/A	Yes	15
Indiana DFI	N/A	N/A	N/A	N/A	N/A
Iowa	No	N/A	N/A	Yes	1
Kansas	No	N/A	N/A	Yes	3
Kentucky	Yes	1,548	N/A	No	N/A
Louisiana	Yes	102,612	Bond $10,000 or CIPC membership	No	N/A
Maine BFI	No	N/A	N/A	No	N/A

Institutions Supervised - Part VII

	Securities Broker/Dealers & Firms			Technology Service Providers	
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number
Maryland	No	N/A	N/A	No	N/A
Massachusetts	No	N/A	N/A	Yes	0
Michigan	Yes	1,970	NR	Yes	22
Minnesota	No	N/A	N/A	No	N/A
Mississippi	No	N/A	N/A	No	N/A
Missouri	No	N/A	N/A	No	N/A
Montana	No	N/A	N/A	No	N/A
Nebraska	Yes [3]	76,836	N/A	Yes	1
Nevada FID	No	N/A	N/A	No	N/A
New Hampshire	No	N/A	N/A	No	N/A
New Jersey	Yes	0	N/A	No	N/A
New York	N/A	N/A	N/A	No	N/A
North Carolina	No	N/A	N/A	No	N/A
North Dakota	No	N/A	N/A	Yes	2
Ohio	No	N/A	N/A	Yes	11
Oklahoma SBD	No	N/A	N/A	No	N/A
Oregon	Yes	1,735	N/A	No	N/A
Pennsylvania	No	N/A	N/A	Yes	4
Puerto Rico	Yes	44	N/A	No	N/A
Rhode Island	No	N/A	N/A	No	N/A

Institutions Supervised - Part VII

	Securities Broker/Dealers & Firms				Technology Service Providers		
	Supervise		Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise		Number
South Carolina BFI	No		N/A	N/A	No		N/A
South Dakota	No		N/A	N/A	No		N/A
Tennessee	No		N/A	N/A	Yes		4 [4]
Texas DOB	No		N/A	N/A	Yes		15
Texas SML	N/A		N/A	N/A	N/A		N/A
Utah DFI	No		N/A	N/A	Yes [5]		4
Vermont	No		N/A	N/A	No		N/A
Virginia	No		N/A	N/A	Yes		N/A
Washington	No		N/A	N/A	No		N/A
West Virginia	No		N/A	N/A	Yes		0
Wisconsin	No		N/A	N/A	Yes		10
Wyoming	No		N/A	N/A	No		N/A
	YES	NO	Total	Total	YES	NO	Total
	9	40	188,550	$0	19	31	130

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1] The Department is not required to approve TSPs, so this figure is only an estimate based on information currently in our records.

[2] Excludes Securities Representatives (88,528), Investment Advisor Firms (88), Investment Advisor Representatives (2,049) and Issuer Agents (34).

[3] Supervised by the Securities Bureau, a division of the Department

[4] Includes non-bank servicers only.

[5] Affiliates of state-chartered institutions.

Institutions Supervised - Part VIII

	Check Cashers			Money Transmitters/Sale of Checks			Consumer Finance Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Alabama SBD	No	N/A	N/A	No	N/A	N/A	Yes	1,329	$25
Alaska	No	N/A	N/A	No	N/A	N/A	Yes	1	$25
Arizona	No	N/A	N/A	Yes	66	$25	Yes	33	N/A
Arkansas SBD	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
California DFI	No	N/A	N/A	Yes	59	$1	No	N/A	N/A
Colorado DOB	No	N/A	N/A	Yes	54	$1 [1]	No	N/A	N/A
Connecticut	Yes	150	$0	Yes	68	$0	Yes	139	N/A
Delaware	Yes	70	$0	Yes	54	$0	Yes	72	$0
District of Columbia	Yes	151	$5	Yes	34	$50	Yes	22	$5
Florida	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Georgia	Yes	1,026	N/A	Yes	108	$100 [2]	No	N/A	N/A
Hawaii	No	N/A	N/A	Yes	40	$0 [3]	Yes	11	$1 [4]
Idaho	No	N/A	N/A	Yes	65	$0	Yes	415 [5]	$0 [6]
Illinois	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Indiana DFI	Yes	56	$100	Yes	33	$500	Yes	151	$100
Iowa	No	N/A	N/A	Yes	61	Bond amount of $50,000 plus $10,000 per location capped at $300,000; minimum net worth of $100,000 plus $10,000 per delegate not to exceed $500,000	Yes [7]	182	Bond of $25,000; net worth of $5,000
Kansas	No	N/A	N/A	Yes	61	$200	Yes	44	$100
Kentucky	Yes	0	N/A	Yes	52	$1	Yes	338	N/A
Louisiana	Yes	617 [8]	N/A	Yes	57	$25/$100 (NW) [9]	Yes	1,808 [10]	$25,000 cash to start
Maine BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part VIII

	Check Cashers			Money Transmitters/Sale of Checks			Consumer Finance Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Maryland	Yes	484	N/A	Yes	81	$0	Yes	538	$0
Massachusetts	Yes	158	N/A	Yes	2,304	$0	Yes	189	N/A
Michigan	No	N/A	N/A	Yes	52	Min. net worth lesser of $125,000 +$25,000 per location or $1 million; surety bond $500,000 - $1.5 million.	Yes	7,743 [11]	Varies
Minnesota	Yes	72	$10	Yes	80	$25	Yes	129	$20
Mississippi	Yes	1,033	$0	Yes	57	$0	Yes	494	$0
Missouri	No	N/A	N/A	Yes	64	$0 [12]	Yes	1,482	$0
Montana	No	N/A	N/A	No	N/A	N/A	Yes	143	N/A
Nebraska	No	N/A	N/A	Yes	53	$100	Yes	14	$50
Nevada FID	Yes	157	$50	Yes	55	$10	Yes	24	$50
New Hampshire	No	0	N/A	Yes	35	$0	Yes	82	$0
New Jersey	Yes	185	$50	Yes	101	$100	Yes	995	N/A
New York	Yes	184	$0	Yes	73	$1	Yes	158	$0
North Carolina	Yes	331	$50	Yes	73	$150	Yes	81	$50
North Dakota	No	N/A	N/A	Yes	20	$150	Yes [13]	0	N/A
Ohio	Yes	169	$25	Yes	52	$300	Yes	261	$50
Oklahoma SBD	No	N/A	N/A	Yes	68	$0	No	N/A	N/A
Oregon	Yes	258 [14]	N/A	Yes	80	$25	Yes	123	N/A
Pennsylvania	Yes	384	N/A	Yes	52	$1	Yes [15]	29	$0 [16]
Puerto Rico	Yes	84	$0	Yes	23	$1	Yes	6	N/A
Rhode Island	Yes	21	N/A	Yes	46	$50	Yes	9	$10

Institutions Supervised - Part VIII

	Check Cashers			Money Transmitters/Sale of Checks			Consumer Finance Companies		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
South Carolina BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
South Dakota	No	N/A	N/A	Yes	29	$100	Yes	0	N/A
Tennessee	Yes	693	$0	Yes	65	$0	Yes	1,053	$0
Texas DOB	No	N/A	N/A	Yes	130	$300	No	N/A	N/A
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	Yes	46	$0 [17]	Yes	58	$50 [18]	Yes	1,300	$0
Vermont	Yes	2	$0	Yes	30	$100	Yes	101	$0
Virginia	Yes	441 (1,433 offices)	Register only	Yes	64	$25,000-$500,000 bond	Yes	17 (151 office)	$25,000 to $50,000 liquid assets
Washington	Yes	0 [19]	N/A [20]	Yes	92	$10 [21]	Yes	383	$30
West Virginia	Yes	0	$100	Yes	40	$100	Yes	7	$0
Wisconsin	Yes	212	$0 [22]	Yes	51	$0 [23]	Yes	246	$0 [24]
Wyoming	No	N/A	N/A	Yes	35	$10	Yes	101	N/A
	YES / NO	Total	Total	YES / NO	Total	Total	YES / NO	Total	Total
	27 / 24	6,543	$390	43 / 8	4,775	$2,460	41 / 10	20,236	$516

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1] Can reduce to $250,000

[2] Check seller bond is $100,000. For a money transmitter, a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state and approved by the Department must accompany an application for a money transmitter license, the bond is $50,000, with an additional principal sum of $5,000 for each location, in excess of one, up to a maximum aggregate of $250,000.00.

Institutions Supervised - Part VIII

[3]$1k minimum bond, max is $500k. Total Net Worth must be no less than $1k.

[4]$500k net worth requirement

[5]Includes Regulated Lenders/Finance Companies (409) and Assignees (6).

[6]Minimum $30,000 in liquid assets required for Consumer Finance Companies, Payday Lenders and Title Lenders.

[7]Regulated & Industrial loan licensees

[8]Check cashers are 617 companies in 1,284 locations.

[9]Minimum Bond = $25,000; Net Worth Minimum = $100,000

[10]In Louisiana, Consumer Finance Companies are the same as Licensed Lenders.

[11]Consumer Financial Services Licensees 16, Credit Card Licensees 2, Motor Vehicle Installment Sellers 1,661, Motor Vehicle Sales Finance Licensees 628, 1st Mortgage Brokers, Lenders, and Servicers 597, 2nd Mortgage Brokers, Lenders, and Servicers 218, Premium Finance Licensees 61, Mortgage Loan Originators 4,560

[12]$100M bond or audit.

[13]Included in total for Licensed Lenders

[14]The department is registering check cashers under a law that became effective 1/1/09.

[15]Consumer Finance Companies are Consumer Discount Companies covered under the Consumer Discount Company Act (7 P.S. § 6201 et seq.).

[16]Consumer Discount Companies covered under the Consumer Discount Act (7P.S. § 6201 et seq.) must provide a $5M bond for each place of business. However, after a license has been held for three continuous years, such bond(s) shall not be renewed or refiled unless the Secretary of Banking has reason to believe such bond is necessary.

[17]Registration Fee

[18]And a $1,000,000 net worth

[19]Included in money transmitters

[20]Varies

[21]Includes money transmitters, currency exchanges and check cashiers/payday lenders

[22]$5,000 Bond/$5,000 Net Worth

[23]$10,000 Bond for 1st location, then $5,000 each/$100,000 Net Worth.

[24]$25,000 Bond/$10,000 Net Worth

Institutions Supervised - Part IX

	Licensed Lenders			Payday Lenders			Appraisers		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Alabama SBD	Yes	608	$10	Yes	1,060	$20	No	N/A	N/A
Alaska	No	N/A	N/A	Yes	27	$25	No	N/A	N/A
Arizona	Yes	430	N/A	No [1]	N/A	N/A	No	N/A	N/A
Arkansas SBD	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
California DFI	Yes	112	$1	No	N/A	N/A	No	N/A	N/A
Colorado DOB	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Connecticut	Yes	339	N/A [2]	No [3]	N/A	N/A	No	N/A	N/A
Delaware	Yes	318	$0	Yes	66	$0	No	N/A	N/A
District of Columbia	Yes	3	$50	No	N/A	N/A	No	N/A	N/A
Florida	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Georgia	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Hawaii	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Idaho	Yes	605 [4]	N/A	Yes	214	$0	No	N/A	N/A
Illinois	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Indiana DFI	Yes	32	$100	Yes	36	$50	N/A	N/A	N/A
Iowa	Yes [5]	225	$100,000; $1	Yes	218	Bond of $25,000 per county in which operating; $25,000 in unencumbered assets for each county in which it operates	Yes	1,218	$0
Kansas	Yes	381	$250	Yes	75	$100	No	N/A	N/A
Kentucky	No	N/A	N/A	Yes	578	$0	No	N/A	N/A
Louisiana	Yes	1,808 [6]	$25,000 cash to start	Yes	943 [7]	$25,000 cash to start	No	N/A	N/A
Maine BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part IX

	Licensed Lenders			Payday Lenders			Appraisers		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
Maryland	Yes	244	$0	No	N/A	N/A	No	N/A	N/A
Massachusetts	Yes	244	$0	No	N/A	N/A	No	N/A	N/A
Michigan	Yes	31	Min. net worth $100,000	Yes	646	Min. net worth $50,000 per location with max. aggregate required $250,000; $50,000 surety bond.	No	N/A	N/A
Minnesota	No	N/A	N/A	Yes	26	$50	No	N/A	N/A
Mississippi	No	N/A	N/A	Yes	1,033	$0	No	N/A	N/A
Missouri	No	0	N/A	Yes	973	$0	No	N/A	N/A
Montana	No	N/A	N/A	Yes	1	$10	No	N/A	N/A
Nebraska	Yes	95	N/A	Yes	116	$50	No	N/A	N/A
Nevada FID	No	N/A	N/A	Yes	157	$50	No	N/A	N/A
New Hampshire	Yes	215	$0	Yes	4	$0	No	0	N/A
New Jersey	Yes	445	$151	No	N/A	N/A	No	N/A	N/A
New York	Yes	21	$0	No	N/A	N/A	No	N/A	N/A
North Carolina	Yes	547	$150	No	N/A	N/A	No	N/A	N/A
North Dakota	Yes	293	$25	Yes	78	$20	No	N/A	N/A
Ohio	Yes	33	$25	Yes	187	$100	No	N/A	N/A
Oklahoma SBD	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Oregon	No	N/A	N/A	Yes	66 [8]	$0	Yes	15	N/A
Pennsylvania	Yes [9]	3,533	N/A	No	N/A	N/A	No	N/A	N/A
Puerto Rico	Yes	69	$1	No	N/A	N/A	No	N/A	N/A
Rhode Island	Yes	257	$50	Yes	0	N/A	No	N/A	N/A

Institutions Supervised - Part IX

	Licensed Lenders			Payday Lenders			Appraisers		
	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)	Supervise	Number	Minimum Bond/ Startup Requirements (Thousands)
South Carolina BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
South Dakota	Yes	357	$10	Yes	N/A	N/A	No	N/A	N/A
Tennessee	Yes	54 [10]	$0 [11]	Yes	1,208	$0	No	N/A	N/A
Texas DOB	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	Yes	0	N/A	Yes	116	$0 [12]	No	N/A	N/A
Vermont	Yes	349	$50	Yes [13]	N/A	N/A	No	N/A	N/A
Virginia	Yes	804	485 Mortgage Brokers) 68 (Mortgage Lenders) 251 (Mortgage Lender Brokers) $25,000 per location	Yes	46 (474 offices)	$10,000 per location not to exceed $50,000	No	N/A	N/A
Washington	Yes	407	$20	Yes	67	$10	No	N/A	N/A
West Virginia	Yes [14]	235	$100 [15]	No	N/A	N/A	No	N/A	N/A
Wisconsin	Yes	649	$0 [16]	Yes	423	$0 [16]	No	N/A	N/A
Wyoming	Yes	230	N/A	Yes	90	N/A	No	N/A	N/A
	YES 33 / NO 18	Total 13,973	Total $993	YES 29 / NO 22	Total 8,408	Total $485	YES 2 / NO 48	Total 1,233	Total $0

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]State law authorizing payday lending expired on July 1, 2010.
[2]Start-up requirements vary depending on type of lender.
[3]Department has prohibition laws on payday lending.

Institutions Supervised - Part IX

[4]Licensed Mortgage Brokers/Lenders excluding Mortgage Originators.

[5]Mortgage banker licensees

[6]In Louisiana, Licensed Lenders are the same as Consumer Finance Companies.

[7]943 Payday Lenders are also Consumer Finance Companies (or Licensed Lenders) and included in 1,808 licensees.

[8]Includes Payday and Title Lenders

[9]Licensed Lenders, include Installment Sellers and Sales Finance Companies, which are covered under the Motor Vehicle Sales Finance Act (63 P.S § 24 et seq).

[10]Premium Finance Companies

[11]Refer to Title Lenders

[12]Registration Fee

[13]Payday lenders can be licensed in Vermont as a licensed lender but would have to observe the state's usury ceilings of a maximum of 18%. None have applied as of December 2011. Payday lenders would also have to observe Vermont's money servicers/check casher law which states "No licensee shall agree to hold a payment instrument for later deposit. No licensee shall cash or advance any money on a postdated payment instrument."

[14]Mortgage Lenders

[15]If annual originations are between $0 and $3MM, minimum bond is $100,000. If annual originations are between $3MM and $10MM, minimum bond is $150,000. If annual originations are over $10MM, minimum bond is $250,000. If Lender acts only as a Servicer, minimum bond is $200,000. A bond of $25,000 is required for each additional licensed location.

[16]$5,000 Bond per location/$50,000 Net Worth

Institutions Supervised - Part X

	Credit Counselors			Financial Advisors			Other Business Supervised		
	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)
Alabama SBD	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Alaska	No	N/A	N/A	No	N/A	N/A	Yes	24	$5
Arizona	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Arkansas SBD	No	N/A	N/A	No	N/A	N/A	Yes	2	N/A
California DFI	No	N/A	N/A	No	N/A	N/A	Yes	1	$2 [1]
Colorado DOB	No	N/A	N/A	No	N/A	N/A	Yes	0	N/A
Connecticut	Yes	60	$0	Yes	472	N/A	Yes	2 [2]	N/A
Delaware	No	N/A	N/A	No	N/A	N/A	Yes	83	N/A
District of Columbia	Yes	5	N/A	No	N/A	N/A	Yes	2,003 [3]	$12
Florida	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Georgia	No	N/A	N/A	No	N/A	N/A	N/A	N/A	N/A
Hawaii	No	N/A	N/A	No	N/A	N/A	Yes	1,011 [4]	N/A [5]
Idaho	Yes	49	$0 [6]	Yes	88 [7]	N/A	Yes	759 [8]	N/A
Illinois	No	N/A	N/A	No	N/A	N/A	Yes	777 [9]	$10
Indiana DFI	Yes [10]	39	$50	N/A	N/A	N/A	Yes	335 [11]	N/A
Iowa	Yes	64	$25,000 for bond	No	N/A	N/A	Yes [12]	1,582	N/A
Kansas	Yes	34	$25	No	N/A	N/A	Yes	4,732	N/A
Kentucky	No	N/A	N/A	No	99	N/A	No	N/A	N/A
Louisiana	No	N/A	N/A	Yes	6,507	N/A	Yes	1,944 [13]	Various
Maine BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part X

	Credit Counselors			Financial Advisors			Other Business Supervised		
	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (in Thousands)
Maryland	Yes	36	N/A	No	N/A	N/A	No	N/A	N/A
Massachusetts	No	N/A	N/A	No	N/A	N/A	Yes	711 [14]	$0
Michigan	No	N/A	N/A	No	N/A	N/A	Yes	143,568 [15]	Varies
Minnesota	Yes	41	$5	No	N/A	N/A	Yes	11	N/A
Mississippi	Yes	45	$0	No	N/A	N/A	Yes [16]	251	$0 [17]
Missouri	No	N/A	N/A	No	N/A	N/A	Yes [18]	27	N/A
Montana	No	N/A	N/A	No	N/A	N/A	Yes	9	$100
Nebraska	No	N/A	N/A	Yes [19]	185	$25 [20]	No	N/A	N/A
Nevada FID	Yes	16	$10	N/A	N/A	N/A	Yes	595	$35
New Hampshire	Yes	22	$0	No	N/A	N/A	No	N/A	N/A
New Jersey	Yes	20	$50	No	N/A	N/A	No	N/A	N/A
New York	Yes	47	N/A	No	N/A	N/A	N/A	N/A	N/A
North Carolina	No	N/A	N/A	No	N/A	N/A	Yes	N/A	N/A
North Dakota	No	N/A	N/A	No	N/A	N/A	Yes [21]	419	$20
Ohio	No	N/A	N/A	No	N/A	N/A	Yes	46	N/A
Oklahoma SBD	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Oregon	Yes	72	$25	Yes	1,432	$10	No	N/A	N/A
Pennsylvania	Yes [22]	45	N/A [23]	No	N/A	N/A	Yes [24]	222	N/A
Puerto Rico	Yes	9	$0	Yes	11	$0	No	N/A	N/A
Rhode Island	Yes	12	$50	No	N/A	N/A	Yes	414 [25]	$20

Institutions Supervised - Part X

	Credit Counselors			Financial Advisors			Other Business Supervised		
	Supervise	Number	Minimum Bond/Startup Requirements (In Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (In Thousands)	Supervise	Number	Minimum Bond/Startup Requirements (In Thousands)
South Carolina BFI	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
South Dakota	No	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Tennessee	No	N/A	N/A	No	N/A	N/A	Yes	503 [26]	$0
Texas DOB	No	N/A	N/A	No	N/A	N/A	Yes	639	$50
Texas SML	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	No	N/A	N/A	No	N/A	N/A	Yes [27]	166	$0 [28]
Vermont	Yes	23	$50	No	N/A	N/A	No	N/A	N/A
Virginia	Yes	38 (247 offices)	$25,000-$350,000	No	N/A	N/A	Yes	5,257 MLOs	$25
Washington	No	N/A	N/A	No	N/A	N/A	Yes	2	N/A [29]
West Virginia	No	N/A	N/A	No	N/A	N/A	Yes	791 [30]	$50 [31]
Wisconsin	Yes	92	N/A	No	N/A	N/A	Yes	273 [32]	$0 [33]
Wyoming	No	N/A	N/A	No	N/A	N/A	Yes	21	N/A
	YES / NO	Total	Total	YES / NO	Total	Total	YES / NO	Total	Total
	20 / 31	731	$265	6 / 43	8,794	$35	34 / 15	161,923	$329

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Business and Industrial Development Corporations
[2]Business and Industrial Development Corporation and Uninsured Bank
[3]Mortgage Lenders and Brokers: 662; Mortgage Loan Originators: 1,341

Institutions Supervised - Part X

[4]8 - Escrow depositories; 67 - Mortgage servicers; 133 - Mortgage loan originator companies (MLOCs); 803 - Mortgage loan originators (Number does not include MLOC branches)

[5]Escrow Depositories - $50k net worth requirement; $100k escrow depository bond requirement. Mortgage servicers -No net worth or bonding requirements; MLOs and MLOCs - No net worth or bonding requirements.

[6]Surety Bond

[7]Includes Investment Advisors Firms as defined by the Idaho Uniform Securities Act of 2004, Section 30-14-202, subsection 15.

[8]Includes Collection Agencies (641), Credit Repair Companies (9), Debt Buyers (97), and Endowed Cemeteries (12). Excludes Collection Agents (43,426).

[9]Check Printers, Sellers or Distributors (13) are required to post surety bond of no less than $10,000 (205 ILCS 690/25). Non-Financial holders of Automated Teller Machines (764) are required to register with the Department, but are not required to post any Bond or pay fees.

[10]Debt Management Companies

[11]Includes 252 First Lien Mortgage Lenders and 83 Subordinate Lien Mortgage Lenders.

[12]Mortgage banker registrants-86; mortgage loan originators-1,497; closing agents-67

[13]Includes 1,760 Notification Filers (Consumer Credit Sellers), 12 Bond for Deed Escrow Agents [$10,000 bond or $25,000 NW required], 73 Repossession Agents, and 12 Repossession Agencies [$1,000,000 bond required]. The department also regulates consumer loan brokers, but doesn't currently have any licensed.

[14]Debt collectors & third party servicers

[15]Investment Advisors 11,500, Securities Agents 132.000, Debt Management Companies 40, Living Care Facilities 40, BIDCOs 2

[16]Motor Vehicle Sales Finance-181; Insurance Premium Finance-51; Consumer Loan Brokers-19

[17]Consumer Loan Brokers

[18]Credit Repair - License

[19]Investment advisors, supervised by the Securities Bureau

[20]Bond or Net Worth requirement

Institutions Supervised - Part X

[21]Collection Agencies

[22]Credit Counselors are institutions covered under the Debt Management Services Act (63 P.S. § 24 et seq.).

[23]Debt Management Services Companies must maintain a bond in an amount greater than the total amount of Pennsylvania consumer funds that the institution holds directly or in trust at any time.

[24]Others include Collector Repossessors licensed under the Motor Vehicle Sales Finance Act (69 P.S.§ 601 et seq.).

[25]Loan Brokers

[26]Mortgage Broker- min. bond $90,000; Mortgage Lenders- min bond $200,000; Mortgage Servicers- min. bond $200,000

[27]Mortgage Servicers

[28]Registration/NMLS Licensing Fee

[29]SBA (7A) Lender and Business Development Co

[30]Mortgage Brokers (89) and Mortgage Loan Originators (1,159)

[31]If annual brokered loans are between $0 and $3MM, minimum bond is $50,000. If annual brokered loans are between $3MM and $10MM, minimum bond is $75,000. If annual brokered loans are over $10MM, minimum bond is $100,000. If broker table funds, minimum bond is $150,000.

[32]Includes 239 collection agencies and 30 insurance premium finance companies

[33]Includes No Bond/$10,000 Net Worth (insurance premium finance companies) Includes Bond starting at 25,000 in-state and 35,000 out-of-state/NW 15,000 (collection agencies)

Institutions Supervised - Part XI

	Non-FDIC Insured Banks				Private Banks			Non-Federally Insured Credit Unions		
	Supervise	Number	Assets (Millions)	If Yes, Maintains Private Deposit Insurance	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Alabama SBD	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Alaska	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Arizona	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Arkansas SBD	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
California DFI	No	N/A	N/A	N/A	No	N/A	N/A	Yes	13	$3,030
Colorado DOB	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Connecticut	Yes	1	$218	No	No	N/A	N/A	No	N/A	N/A
Delaware	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
District of Columbia	No	0	N/A	N/A	No	0	N/A	No	0	N/A
Florida	Yes [1]	35	$14,336	N/A	No	N/A	N/A	No	N/A	N/A
Georgia	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Hawaii	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Idaho	No	N/A	N/A	N/A	No	N/A	N/A	Yes	18	$158
Illinois	Yes	1	$726	No	No	N/A	N/A	No	N/A	N/A
Indiana DFI	No	N/A	N/A	N/A	No	N/A	N/A	Yes	17	$1,891
Iowa	N/A	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Kansas	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Kentucky	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Louisiana	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Maine BFI	No	N/A	N/A	No	No	N/A	N/A	No	N/A	N/A
Maryland	No	N/A	N/A	N/A	No	N/A	N/A	Yes	3	$100
Massachusetts	Yes	1	$62	No	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part XI

	Non-FDIC Insured Banks				Private Banks			Non-Federally Insured Credit Unions		
	Supervise	Number	Assets (Millions)	If Yes, Maintains Private Deposit Insurance	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Michigan	Yes [2]	5	$49	No	No	N/A	N/A	No	N/A	N/A
Minnesota	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Mississippi	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Missouri	No	N/A	N/A	N/A	No	N/A	N/A	N/A	N/A	N/A
Montana	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Nebraska	Yes	1	$1	No	No	N/A	N/A	No	N/A	N/A
Nevada FID	No	0	N/A	N/A	No	N/A	N/A	Yes	7	$2,215
New Hampshire	Yes	1	$1	N/A	No	N/A	N/A	No	N/A	N/A
New Jersey	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
New York	No	N/A	N/A	N/A	Yes	1	$6,841	No	N/A	N/A
North Carolina	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
North Dakota	Yes	1 [3]	$5,375	No [4]	No	N/A	N/A	No	N/A	N/A
Ohio	No	N/A	N/A	N/A	No	N/A	N/A	Yes	63	$1,894
Oklahoma SBD	Yes	1	$8	No	No	N/A	N/A	No	N/A	N/A
Oregon	N/A	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Pennsylvania	Yes	1	$530	Yes	Yes	1	$530	No	N/A	N/A
Puerto Rico	Yes	2	$1,384	No	No	N/A	N/A	No	N/A	N/A
Rhode Island	Yes	4	N/A [5]	No	No	N/A	N/A	No	N/A	N/A
South Carolina BFI	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
South Dakota	Yes	1	$53,536	No	No	N/A	N/A	No	N/A	N/A
Tennessee	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Texas DOB	Yes	2	$8	No	No	N/A	N/A	No	N/A	N/A

Institutions Supervised - Part XI

	Non-FDIC Insured Banks				Private Banks			Non-Federally Insured Credit Unions		
	Supervise	Number	Assets (Millions)	If Yes, Maintains Private Deposit Insurance	Supervise	Number	Assets (Millions)	Supervise	Number	Assets (Millions)
Texas SML	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Utah DFI	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Vermont	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Virginia	Yes [6]	1	$10	No	No	N/A	N/A	No	N/A	N/A
Washington	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
West Virginia	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Wisconsin	Yes [7]	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
Wyoming	No	N/A	N/A	N/A	No	N/A	N/A	No	N/A	N/A
	YES / NO	Total	Total	YES / NO	YES / NO			YES / NO		
	16 / 34	58	$76,244	1 / 13	2 / 48			6 / 44		

NR: Not Reported.
N/A: Not Applicable.
The following state banking departments did not participate in this chart: Guam, New Mexico, Virgin Islands.

[1]Foreign Banking Organizations
[2]Non-depository trust only banks.
[3]Also included in Banker's Banks total
[4]Deposits are backed by the full faith and credit of the state of North Dakota
[5]Data is stored offsite
[6]Building & Loan Association
[7]The division regulates three nondepository trust companies