TESTIMONY OF W. DENNIS SHAUL

CHIEF EXECUTIVE OFFICER

COMMUNITY FINANCIAL SERVICES ASSOCIATION OF AMERICA

BEFORE THE UNITED STATES SENATE SPECIAL COMMITTEE ON AGING

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Good morning, Chairman Nelson, Senator Collins, and other members of the Committee. My name is Dennis Shaul, and I am Chief Executive Officer of the Community Financial Services Association of America (CFSA), the national organization for small-dollar, short-term lending, or payday loans. We are very pleased to be here today to discuss the use of payday loans by seniors.

CFSA and the Payday Lending Industry

The Community Financial Services Association was formed in 1999 to promote laws and regulations that protect consumers while preserving access to credit options, and to support and encourage responsible practices within the payday loan industry. CFSA's member companies represent more than half of all traditional payday loan storefronts across the country, in more than 30 states. Our members provided payday loans to more than 19 million households in 2010, as well as a wide range of other financial products and services, including bill payment, check cashing, installment loans, prepaid debit cards, and tax preparation services.

Our members' storefront locations put us in the heart of many financially underserved communities. CFSA members are heavily regulated at the federal level and at the state level in the individual states where they operate. Additionally, to serve our customers responsibly, CFSA has developed a set of 13 Best Practices that begin with compliance with all applicable state and federal laws. A list of these Best Practices is attached to this testimony. They cover everything from advertising to collection practices. Our members hold themselves to a higher standard, and we believe that these practices differentiate our members from other providers in the short-term credit industry.

Those other providers include unregulated offshore entities and other illegal or unscrupulous lenders who prey on the most vulnerable segments of our population: people with important credit needs and limited access to responsible, reputable providers. Unfortunately, it is sometimes the very laws and rules imposed to protect consumers that actually restrict consumers' access to regulated lenders and drive them to these unregulated and unscrupulous lenders. Those businesses have no place in CFSA, and we are as committed to protecting consumers from them as you are.

A payday loan is an unsecured, short-term loan generally under $500 and typically due on the borrower's next payday. An average payday loan is between $300 and $400, with a typical fee of $15 per $100 borrowed over a repayment period of two to four weeks. The member companies of CFSA make these loans face-to-face, in borrowers' own communities, and consumers can and do use payday loans for an almost infinite variety of needs. Borrowers must complete an

application and meet certain income levels, and lenders make loans with confidence that they will be repaid. Our customers appreciate that the process of applying for and receiving a payday loan is faster and more straightforward than applying for some other forms of short-term credit, which makes these products more attractive to many borrowers.

We have long believed in—and in fact have championed—the concept of providing consumers with a product that fully disclosed and easy to understand. The structure of a payday loan is simple and clear to the borrower. CFSA Best Practices include a requirement that members disclose loan fees and terms on large poster-sized displays inside all storefronts, including the cost in both dollar amount and as an annual percentage rate. An example of one of these disclosures is included with this testimony. As you can see, this disclosure is far more straightforward, easier to understand and more transparent than the truth-in-lending disclosures that arrive with your monthly credit card statement.

Because payday lenders do not accept federally-insured deposits, they are regulated and supervised at the state level. Thirty-three states have specific statutes that allow for payday lending. Compliance with all applicable state laws and regulations is the first of CFSA's Best Practices, and we consider these requirements a floor, not a ceiling.

CFSA members have long been subject to state supervision and audit requirements. This state supervision includes extensive licensing and renewal requirements, examination and audit procedures, and other consumer protection laws and regulations. Requirements for a state license typically include a bond,

background investigations and fingerprinting of company officials, evidence of industry experience, and minimum capitalization and liquidity requirements. State examinations monitor compliance with laws and regulations, and often include a review of loan agreements, customer files, federal and state disclosures, and collection procedures. States may also impose other regulatory requirements on the operations of payday lenders, such as caps on the fees that may be charged, maximum loan transaction amounts, and minimum and maximum loan terms.

CFSA believes that these state licensing and regulatory procedures are fundamental to establishing accountability for good business practices. Because CFSA member companies have a physical presence in the communities we serve, we have a vested interest in making sure that our members and our competitors are good corporate citizens. The openness and transparency required by state laws and regulations serve as a deterrent to the types of problems that may arise in other, less-regulated distribution channels, such as offshore lenders whose ownership may be obscure, and whose avenues for consumer redress may be limited or nonexistent.

The Demand for Payday Loans

Payday loans serve a critical need for many American consumers, filling a gap for those who need to borrow relatively small sums to meet critical short-term expenses. This need is substantial and growing, and crosses almost all demographic lines.

A 2011 study by the National Bureau of Economic Research found that half of American households could not come up with $2,000 for an unexpected expense in a 30-day period from all sources, including savings and borrowings. Roughly half of all American families are living paycheck-to-paycheck, and lack adequate savings to cover for unplanned expenses. Millions of Americans simply do not have the cash flow to pay all their bills at the beginning of the month. Payday loans are one option for those who need help to make it to the next paycheck.

The need for and use of short-term credit is significant and is growing. Total payday loan volume was approximately $48.7 billion in 2012, an increase of 10 percent over 2011, according to the investment firm Stephens Inc.

The economic downturn has unquestionably led to an increase in the number and types of people seeking short-term credit. A 2009 study for the Financial Services Research program at George Washington University School of Business found that the overwhelming majority of borrowers seeking payday loans — 70.8 percent — agreed with the statement, "I had an unexpected expense that could not be postponed." As this study notes, however, "Assigning a single reason for using a payday loan may be arbitrary and inconsistent across consumers."[1]

Eliminating access to storefront payday lenders for these borrowers raises the question of where these consumers might go to meet their short-term cash flow needs in the absence of regulated providers. These needs simply do not just go away. Unfortunately, we have seen evidence of where they go: to unregulated

[1] Elliehausen, Gregory. "An Analysis of Consumers' Use of Payday Loans," Financial Services Research Program Monograph No. 41, The George Washington University School of Business, January 2009.

lenders, often offshore, who may charge unlimited interest rates and undisclosed fees at much higher risk, including the risk of identity theft. While CFSA makes no judgments about the trustworthiness of these lenders, the protections states want to extend to their citizens are not in force for these loans.

Today's hearing looks specifically at the use of payday loans by senior citizens, Americans aged 65 and up. The Equal Credit Opportunity Act prohibits discrimination in lending on the basis of age and requires lenders to treat pension and Social Security income the same as income from employment for purposes of loan eligibility. As an age group, however, senior citizens form an extremely small subset of payday loan borrowers – less than 8 percent, according to most sources that track these data. In Florida, for example, borrowers over age 65 account for only 7.2 percent of payday loan transactions, although seniors account for 25.5 percent of all adults in the state.[2] These results are consistent with other academic studies[3] and with our members' broad experiences nationwide. This usage pattern is consistent with seniors' use of all forms of credit, which is lower than that of the general population; but per capita use of payday loans among senior citizens is even lower than their use of other forms of credit.

The most important reason for this is lifecycle. Younger families, particularly those with children, tend to have strong demand for credit, because their shorter employment history allows less time to accumulate savings and because the benefits

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[2]Veritec Solutions LLC report to Florida Office of Financial Regulation (June 2012), available at www.veritecs.com/Docs/2012_06_FL_Trends_FINAL.pdf
[3]Elliehausen, *supra*, n. 1.

of investments in durable goods tend to be greater. It makes economic sense, for example, for a family with toddlers to finance the purchase of a car, a crib or even a highchair. Older families and senior citizens have had more time to accumulate precautionary savings, to establish credit histories with mainstream lenders, and to acquire household durable goods that may last a lifetime. Moreover, senior citizens, particularly those who experience fixed incomes, are much less likely to have income "shocks" – unexpected interruptions or reductions in income, such as from a layoff or reduction in overtime hours – than their younger counterparts.

The Choice to Use Payday Loans

CFSA recognizes that payday loans are just one of many tools in a consumer's financial toolbox, albeit a critically important one. As a Federal Reserve Board economist and his colleagues found, "initial payday loan applications occur precisely when consumers' access to liquidity from mainstream creditors is lowest."[4] Our members provide fast financial help to consumers when they need it most urgently.

This does not mean that other options are not available. In fact, it means that consumers often make the informed decision that a payday loan from a CFSA member is a better choice, based on their individual needs, than alternatives such as bank overdrafts, credit card advances, automobile title loans, installment loans, or

[4] Bhutta, N.; Skiba, P.M.; and Tobacman, J. "Payday Loan Choices and Consequences," Vanderbilt University Law School Law & Economics Working Paper Number 12 – 30, January 25, 2013.

pawn transactions. As the demand for short-term credit has increased, CFSA has welcomed the entry of new regulated entities into this market, particularly credit unions. Competition among regulated lenders is not only good for the consumers we serve, but it also helps to push prices down.

While many choose to label payday loans as a high-cost credit product, they are often less expensive than other short-term credit options available to borrowers. A table attached to this testimony compares typical short-term finance costs; as you can see, financial institutions' insufficient funds fees or overdraft protection service fees are routinely more expensive than a payday loan.

Beyond the question of costs, CFSA members provide a friendly, convenient, and community-oriented atmosphere for our customers, many of whom may find a bank intimidating. CFSA members typically provide a wide range of financial services; no stigma attaches to walking into a storefront that also serves as a money transmitter, check casher, tax preparer or other financial service provider.

The economic profile of a CFSA member's customer base is very similar to the broader economics of the population as a whole, as reported by the most recent U.S. Census. In 2011, Advance America, the largest storefront lender in the United States reported that the median household income of its customers was just over $54,000. The vast majority – over 90 percent – have a high school diploma, and more than half have completed some college. Approximately 48 percent of Advance America's borrowers are homeowners, and a significant portion have major credit cards. Because of the nature of payday loans, they all have steady income sources,

and they all have bank accounts. They are fully participating members of the American economy.

Consumer Protection and the Collection Process

Our member companies work extremely hard to ensure that their customers take payday loans that meet, but do not exceed their individual needs. It hurts both the provider of the loan and the customer when a loan is not repaid.

Individual state laws govern the collection processes for payday loans, and CFSA Best Practices provide additional guidance. It has been suggested, for example, that payday loans contribute to a “cycle of debt” that keeps borrowers from building wealth. Research specifically discounts this phenomenon, as detailed in the previously cited 2009 Elliehausen study. Dr. Elliehausen’s study found that “few payday loan customers considered payday loans as a debt trap,” and reported that only three percent of payday borrowers expressed dissatisfaction with their payday loan because of concerns about the difficulty of getting out of debt.

Further, CFSA Best Practices limit rollover loans, which is when a customer pays the fee only, and extends the loan. In fact, rollover loans are prohibited unless explicitly allowed by state law. Where state law allows rollovers, our Best Practices limit rollovers to four (4) or the state limit, whichever is less.

If a customer is unable to pay back a loan within the arranged timeframe, our members will work with them to find the best ways to deal with their individual situation and the repay the loan in full. In addition, CFSA’s Best Practices include an Extended Payment Plan (EPP). Unique in financial services, the CFSA EPP, where

allowed by law, offers customers more time to repay a loan, usually four extra pay periods, without additional fees or interest. As long as a customer does not default on the EPP, the lender will not pursue additional collection measures. Applying for the EPP does require that the borrower return to the lender – to the storefront or online – and sign a new agreement. Additionally, many of our members also have close working relationships with credit counseling agencies in their communities. The bottom line is that our members go to great lengths to make sure that their borrowers are successful.

Under our Best Practices, members may not pursue criminal prosecution against a customer if a check is returned. If it becomes necessary and appropriate, our members, like any other type of lender, may turn an account over to a licensed collection agency.

The effectiveness of CFSA's Best Practices is reflected in the number of consumer complaints filed against payday lenders, compared to other lending institutions. The Federal Trade Commission's 2012 Consumer Sentinel Network Data Book reported only 476 complaints against payday lenders, compared to 62,315 against mortgage companies, 8,013 against finance companies, and 3,448 against banks and credit unions. We ascribe this low complaint rate to several factors. Customer satisfaction with our product is extremely high, but perhaps more importantly, we have been successful at working with state regulators to incorporate our Best Practices into state law and to familiarize borrowers with their rights and obligations, and with the consumer-friendly nature of our services.

The Federal Government's Role in Protecting Payday Loan Borrowers

CFSA knows from experience that educated borrowers are our members' best customers, and that access to clear, consistent, unbiased information benefits both the lender and the borrower. Inconsistency in the application of standards and the delivery of information across state lines can lead to confusion and abuse.

The federal government can help protect payday loan borrowers by improving the consistency with which federal rules and regulations are applied to similar short-term, small-dollar products, regardless of the provider's organizational structure or business model. Many short-term, small-dollar credit options, such as title loans, installment loans, deposit advance loans, and overdraft protection services, are offered by both banks and non-bank institutions. These very similar products and services, however, are not necessarily regulated in the same manner. We hope that the Consumer Financial Protection Bureau will work toward regulating like products in a like manner, as that type of consistency will reduce confusion and improve understanding among consumers who depend on these products.

CFSA members work continuously and consistently with state legislators and regulators to ensure that laws and regulations keep pace with advances in lending products and technology, and with changes in the economy. We are proud to provide an essential service in the communities we serve, and we seek to do so in a responsible manner. We welcome the opportunity to discuss our business, our experiences in the serving the short-term credit needs of millions of American

consumers as well as the important safeguards our members have put in place for those that we serve.

Thank you for this opportunity to testify. I welcome any questions you may have.