FINANCIAL SERVICE CENTERS OF AMERICA, INC.
A NATIONAL TRADE ASSOCIATION

Statement of

Financial Service Centers of America

Submitted to the
United States Senate Special Committee on Aging

Hearing on Payday Loans:
"Short-Term Solution or Long-Term Problem?"

July 24, 2013

www.fisca.org

1730 M STREET N.W. • SUITE 200 • WASHINGTON, D.C. 20036 • TEL. 202-719-2388 • FAX 202-419-1843

Financial Service Centers of America (FiSCA) is pleased to submit this Statement in connection with the July 24, 2013 hearing of the U.S. Senate Special Committee on Aging entitled *"Payday Loans: Short-Term Solution or Long Term Problem?"* FiSCA welcomes the interest of Chairman Nelson, Senator Collins, and the entire Committee, in the issue of the use of payday loans by seniors. FiSCA is firmly committed to working with legislators, regulators, consumer advocates, and other financial industry stakeholders to satisfy all of their concerns regarding our products and services.

FiSCA and the FSC Industry

Formed in 1987, FiSCA, is the oldest national trade association representing the neighborhood financial service center (FSC) industry. FiSCA members operate more than 6,500 storefront locations throughout the United States, providing transactional financial services including check cashing, money transmission services, money order sales, payday advance and other small dollar loans, electronic bill payment services, prepaid card products, and many others. Since its inception, FiSCA has been the leading voice on legislative, regulatory and business issues that affect its members and the rights of U.S. consumers to access basic financial services.

FSCs make up an economically significant industry that conducts more than 350 million transactions each year, providing more than $100 billion in various products and services to over 30 million customers. Our customers understand and appreciate the services we offer. An industry survey showed that 95% of customers rated our services as "good to excellent," and 92% rated the overall value of our services as "good to excellent." FiSCA-member FSCs share several important characteristics. These include: customer service, transparency, and a culture of compliance.

Customers are an FSC's greatest asset and customer service begins by being part of the environment in which services are provided. The FSC industry is interwoven into the fabric of the neighborhoods we serve, where our customers, and our employees, live and work. In addition to being an important employer nationwide, FSCs hire from within the communities in which they operate their brick and mortar locations. A 2008 FiSCA survey found that FiSCA member companies are a leading source of employment for women and minorities. The survey found that 69% of employees are members of racial and ethnic minority groups. Nationally, the industry employs almost 60,000 people, which puts FSCs far above average in hiring within these groups. These statistics illustrate that FSCs are truly in and of the communities they serve; hiring from within those communities to serve those who live there. This is but one reason customers are comfortable conducting their financial business in these locations.

FiSCA members have always been innovators in developing financial products and services that closely meet consumers' needs. These innovations include credit and non-credit products. In addition to payday loans, many FiSCA members have developed and are offering installment loan products, which provide for longer and more flexible terms, where these products are permitted by law. In order to encourage FSC customers to save, FiSCA members pioneered the FiSCA-NetSpend National Savings Program, which allows consumers to direct funds that have been deposited onto prepaid cards into individual FDIC-insured savings accounts. These accounts currently pay qualified borrowers interest at 5% APY. Over its lifespan, this program has resulted in tens of millions of dollars of savings by FiSCA member customers.

Among the many reasons FiSCA was formed was the need for industry guidance in complying with state and federal regulation. Among FiSCA's accomplishments is its recognized role as a leader in developing regulatory compliance programs for its members. FiSCA members must adhere to a strong Codes of Conduct regarding lending and other services. These Codes of Conduct require, among other things, compliance with the laws of the states in which members operate and in which borrowers reside.[1]

Transparency in providing financial services is also a cornerstone of FiSCA's identity, as reflected in its Codes of Conduct, and FiSCA wholeheartedly supports transparency in all financial products. All fees charged by FSCs are clearly disclosed at the point of sale. As a customer service driven industry, FSCs would not remain in business if consumers felt cheated or misled, particularly since low- and moderate-income consumers manage tight budgets and cannot be subject to surprise fees and back end charges. An unexpected charge can be catastrophic to a household's finances. Just like any other industry, educated consumers are in the long-term best interests of reputable companies offering small dollar loans.

FiSCA members offer payday loans in accordance with the laws of the states that permit them and in compliance with FiSCA's stringent Codes of Conduct, which govern the credit offerings and other products offered by FiSCA members. As such, the payday loans offered by FiSCA members are a safe, viable, and regulated credit option for consumers who choose to use them to meet their credit needs. FiSCA's Code of Conduct for Offering Access to Credit has, since its adoption in 2007, required that members offer consumers extended payment plans both independently and as required by state laws. FiSCA's Codes of Conduct provide an array of robust consumer protections, including full disclosure of costs and fees, appropriate and reasonable collection processes, and limitations or prohibitions on rollovers.

[1] FiSCA's Codes of Conduct are available at www.fisca.org.

The Payday Loan Customer

There are as many as 60 million Americans who rely upon FSCs in addition to, or instead of, traditional financial institutions, such as banks and credit unions, when conducting their routine financial business. Those who take out payday advance loans are banked individuals with checking accounts and a steady source of income. The application process is simple and transparent, and does not require collateral or personal property as security (*e.g.*, no car titles). All fees charged by FSCs are posted in our stores and explained up front. All fees are paid at the time of the transaction, at the point of sale.

Consumers who utilize FSCs are ordinary Americans trying to make ends meet. Our customers are not financially ignorant; rather they are keenly aware of their credit options and the costs associated with each. They know, for example, that payday loans compare favorably to bank overdraft programs, bounced check fees, late payment penalties, credit card advances and deposit advance programs offered by banks and credit unions. With this in mind, it is no surprise that these products enjoy high customer satisfaction levels, and State regulatory agencies receive few consumer complaints against licensed operators.

The Payday Loan Product and Process

Companies offering small dollar loans satisfy a consumer need for credit that banks and credit unions cannot, or will not, satisfy. As evidenced by the failure of the FDIC's Small Dollar Loan Pilot Project (concluded in 2009), most banks have determined that these loans are not profitable for them to offer within their infrastructure and, as such, have demonstrated little appetite for offering such products.

Banks and credit unions have significant barriers to entry that make it difficult, if not impossible, for consumers in need of short-term, small dollar loans to secure that credit in a timely manner. Payday loans are, in fact, often the best alternative for consumers in need of immediate cash to meet financial emergencies. Studies conducted in states where such loans have been eliminated show that consumers are left to choose from less desirable options. Consumers often turn to higher priced, unregulated, and credit damaging alternatives, including illegal and predatory off-shore Internet lenders.

Existing Regulation of the Payday Loan Industry

The FSC industry is a highly regulated industry. FSCs are regulated in most U.S. state jurisdictions, typically by state banking departments or other state financial regulators. State regulation of FSCs typically includes licensing or registration requirements, mandatory recordkeeping requirements, periodic financial examinations, annual financial reporting requirements, regulation of fees chargeable and various consumer protections including signage specifying rates. Virtually every state in the U.S. with any sizable FSC industry has enacted legislation to regulate these businesses.

When discussing payday lending, states have steadily gained expertise in regulating the industry. That knowledge has led to broad discretionary power for state regulators to impose new licensing requirements, interpret or enforce existing regulatory requirements in different ways, and issue new administrative rules. Highlights of these state regulations include:

- 32 regulated states now limit rollovers, 19 of which prohibit them completely;
- 30 states limit the loan amount consumers may borrower, and 26 states cap the fee that may be charged;
- 19 states have provided borrowers with a no-cost right to rescind, if they change their mind after taking out a loan;
- 13 states have mandated various forms of extended repayment plans and four additional states allow for such plans; and
- 24 states prohibit a lender's use of criminal prosecution to collect on a payday loan.

State regulators have comprehensive systems for receiving and processing customer complaints, as well as investigating and resolving consumer concerns.

On a national basis, FiSCA members offering small dollar loans already operate under an extensive umbrella of federal regulations, which include:

- Truth in Lending Act and Reg. Z;
- Fair Credit Reporting Act and Reg. V;
- Fair Debt Collection Practices Act;
- Equal Credit Opportunity Act and Reg. B;
- NACHA Rules and Guidelines;
- Red Flags-Fair and Accurate Credit Transactions Act; and
- Other federal regulatory requirements also apply, particularly with respect to financial privacy (Gramm-Leach Bliley Act and Reg. P).

Looking forward, it is important that any new legislation or regulations preserve a viable short-term lending market, where all products are judged by the same rules and metrics so that prices are clear and consumers can make good sound judgments for themselves. Across-the-board rules regarding transparency (including forms of the expression of loan cost in addition to APR) and mandating simple loan applications would most benefit consumers, allowing them to make comparisons among financial services and to make informed decisions. Furthermore, FiSCA would strongly urge that all supervision of the industry encourage competition and level the playing field among bank and non-bank lenders. This kind of regulatory parity would more effectively protect consumers rather than rules that reduce competition or drive consumers to the unregulated market. Moreover, regulators should ensure that regulations imposed on the industry not complicate transactions. The experience of the FSC industry is that a complicated transaction quickly loses customers' interest and, therefore, they are more tempted to pursue seemingly simpler but unregulated options.

FiSCA also submits that in seeking further oversight of the FSC industry, legislators and regulators consider the law of unintended consequences. Establishing an additional layer of regulatory burdens on the small dollar loan industry will significantly increase industry costs with little, if any, corresponding benefit to customers. State regulators have comprehensive systems for receiving and processing customer complaints, as well as investigating and resolving consumer concerns. This is a process that works. By trying to repair a process that is not broken, consumers may be left with fewer choices, and they will be driven to higher cost products, or worse, to the unregulated lending market (particularly off-shore Internet lenders) where they have no protections at all, and are more vulnerable to being taking advantage of by bad actors.

The Use of Payday Loans by Senior Citizens

With respect to the concern of the Senate Special Committee on Aging regarding payday lending to seniors, independent analysis provided by Veritec Solutions, LLC, has established that only 7.2% of all payday loan transactions in Florida were conducted by borrowers age 65 and older. Florida's data is consistent with that of the State of Washington, where only 6.1% of customers were age 65 and older, and that age group conducted only 7.3% of all payday loan transactions. In North Dakota, the number of transactions for borrowers over age 60 in 2012, was only 6.6%. FiSCA members do not target senior citizens, but extend payday loans to borrowers in this age group in accordance with state and federal law, including the Equal Credit Opportunity Act.

The Focus on Payday Lending Should Be on Unregulated Providers

There are good actors and bad actors in every business sector. But it is important not to mischaracterize the action of a very small number of bad actors as the behavior of an entire industry. The payday loan product is already heavily regulated at the state level. In addition, the licensed industry fully supports the goal of ensuring that all financial transactions are transparent, and include adequate consumer protections. That is why FiSCA member companies offering payday loans follow Codes of Conduct that include rigorous consumer protections.[2]

At the same time, FiSCA recognizes that there are unregulated companies that fail to abide by any laws, offer loan products at much higher rates of interest, and commonly fail to provide any consumer protections. These companies are bad for everyone, consumers and the industry alike. These companies should be the primary focus of policymakers as they explore how best to regulate non-bank financial services. It is our hope that the CFPB and other regulators will look to regulate all short-term, small dollar credit products and services consistently across all entities that offer them to consumers.

However, regulation of the industry should encourage competition and level the playing field among bank and non-bank lenders. Across-the-board rules regarding transparency and mandating simple loan applications would most benefit consumers, allowing them to make comparisons among financial services and to make informed decisions. This kind of regulatory parity would more effectively protect consumers rather than rules that reduce competition or drive consumers to the unregulated market.

<u>The CFPB White Paper on Payday Lending</u>

During the Committee's July 24, 2013, hearing, David M. Silberman, the Associate Director for Research, Markets and Regulation of the CFPB, testified regarding the CFPB's recently released study entitled "*Payday Loans and Deposit Advance Products: A White Paper of Initial Data Findings*". FiSCA has registered strong criticism of the White Paper through meetings and correspondence with the CFPB, and we object to the use of the White Paper's

[2] FiSCA's Code of Conduct in Offering Access to Credit provides that "[a]ny FiSCA members offering payday advances through the Internet shall be licensed in each state where its payday advance customers reside and shall comply with applicable laws and regulations, including limitations on rates, rollovers, disclosures and other requirements imposed by state law . . . ." FiSCA's Codes of Conduct are available at www.fisca.org.

findings as the basis for any industry guidance or regulation of state regulated payday loans. FiSCA's deep concerns regarding the White Paper include: 1) its presentation of data; 2) the absence of definitions for key, normatively weighted concepts; 3) the lack of any systematic interviews or survey research into customers' level of satisfaction with the products or their understanding of the product's contract terms; 4) the absence of any analysis of opportunity cost, *i.e.*, the cost of using a payday loan versus the cost of other types of available financial products or taking no loan at all; 5) the lack of comparative analysis of various state regulations and their consequences; 6) the lack of a serious review of the existing scholarly literature and any attempt to contend with their conclusions; 7) the lack of a discussion of complaints, or lack thereof; and 8) the lack of any research into the outcomes. FiSCA's dialogue with the CFPB regarding the White Paper is ongoing.

Conclusion

FiSCA welcomes the interest of the Senate Special Committee on Aging in the use of payday loans by seniors. However, as demonstrated above, senior citizens are a small segment of payday borrowers. In any event, FiSCA urges that policymaking that may impact this important small dollar credit product be based on solid data and research, and be undertaken with a full understanding of the existing regulatory environment under which small dollar loans are currently offered, the consumer protections already in place, and the important role such loans fill to meet the short term credit needs of millions of Americans. It is imperative that legislators and regulators make informed decisions based on facts, not anecdotes or innuendo. FiSCA welcomes the opportunity to participate in the dialogue regarding payday lending and continuing to work with all interested parties with respect to this important small loan product. We thank the Committee for its consideration.