

Center for Regulatory Effectiveness

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Via e-mail and FedEx

The Honorable J. Dorrance Smith
Assistant Secretary for Public Affairs
U.S. Department of Defense
1400 Defense Pentagon
Room 2E556
Washington, DC 20310-1400
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Re: Petition for correction of August 9, 2006, Department of Defense (DOD) *Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents*, pursuant to Public Law 106-554, § 515 and 44 U.S.C. § 3501 *et seq.* (see 44 U.S.C. § 3516 note), as implemented through the OMB¹ and DOD guidelines²

Dear Assistant Secretary Smith:

This petition is filed with DOD to seek and obtain correction of information “that does not comply with the quality standards”³ in the above-referenced information quality law and guidelines. References in the text of this petition are to sections of the DOD guidelines or the pages of the non-compliant DOD report unless otherwise indicated.

This petition is organized according to the directions in sec. 3.3.4 of the DOD guidelines. We have added an executive summary to the petition content required by the DOD guidelines. We have also added a section on the corrections sought, although not specifically required by the DOD guidelines. The information quality law requires that affected person be provided the means to “seek and obtain” corrections, not just to explain non-compliance.

¹ 67 FR 8452 (Feb. 22, 2002) (“OMB guidelines”), available at <http://www.whitehouse.gov/omb/fedreg/reproducible2.pdf>.

² Notice of Availability published 68 FR 14599 (Mar. 26, 2003). The DoD guidelines published pursuant to the OMB guidelines are available at http://www.defenselink.mil/pubs/016_DEPSECDEFInfoQualMemo.html.

³ DOD guidelines, *supra*, Attach. 1, sec. 3.2.1. Hereafter, references to sections are to sections of Attachment 1 of the DoD guidelines unless otherwise indicated.

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We note at the outset that the DOD information quality guidelines require petitions to be “brief and simple”. Consequently, we have attempted to keep this petition as brief and simple as possible by not quoting and citing every incidence of the types of non-compliant information we focus on here, since they are so pervasive. Many significant related factual errors are not addressed in this petition in order to keep it “brief and simple”. We also have limited the supporting documentation to that which we believe is sufficient to illustrate the point(s) it is supporting. We expect that DoD will be able to identify most of the specific portions of the report that are challenged as non-compliant from the information on non-compliance provided herein.

Executive Summary

Under the information quality law and guidelines federal agencies are required to ensure and maximize the “quality, objectivity, utility, and integrity” of the information they disseminate to the public, and affected persons are entitled to seek and obtain correction of information that does not comply with the quality standards (which include objectivity and utility). The OMB and DOD guidelines provide interpretive substance to the statutory requirements, particularly the quality standards. For example, the DOD guidelines (sec. 3.2.2.) require, under the “objectivity” quality standard, that DOD information be “presented in an accurate, clear, complete and unbiased manner and as matter of substance is accurate, reliable, and unbiased.”

Fundamental portions of the DOD report are non-compliant with the information quality standards. Among other things --

- (1) The characterization of all payday advances as “predatory” lacks any sound factual or analytical basis and is biased, and therefore violates the standards of objectivity and utility.
- (2) The related DOD assertion that all payday advance companies prey on military personnel by concentrating their outlets near military installations lacks any sound factual or analytical basis, and therefore lacks objectivity and utility.
- (3) The assertion, and related discussion and analysis, that payday advances are inherently “predatory” because they force borrowers into a “debt trap” through rollovers and refinancings is inaccurate and biased and therefore violates the standards of objectivity and utility.
- (4) The selective, incomplete and not necessarily representative anecdotes presented to support the proposition that payday advances cause serious financial or readiness problems for military personnel are biased and do not provide valid analytical support.
- (5) The DOD assertion that a 36% APR ceiling on all payday advances is necessary and appropriate to eliminate “predatory” and “usurious” lending lacks a sound, transparent, factual or analytical basis, and therefore lacks objectivity and utility.
- (6) The DOD report lacks any information concerning the conclusions it obtained through the consultations with Treasury, the Federal Reserve, or FDIC that were required by Congress, and

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therefore the entire report lacks objectivity and utility. In fact, the report appears to be at odds with views on "predatory" lending already presented by Treasury, the Federal Reserve, and FDIC.

(7) The DOD report repeatedly states and relies on negative, inaccurate, or unsupported information about payday lending as factually accurate, frequently without even citing the source of such information or by blindly accepting such information derived from unsubstantiated claims of the Center for Responsible Lending ("CRL"), an advocacy group committed to preventing payday lending. The report also fails to discuss and consider much readily available factual and analytical information that is contrary to clearly biased claims by CRL. Therefore, the report lacks the required objectivity and utility.

Disseminating Organization

Congress directed the Secretary of Defense to provide the report containing the information challenged here.⁴ The legislation is in Appendix I. Since the DOD report containing the challenged information does not indicate to what official or office within DOD the Secretary delegated responsibility for preparation of the report, this petition is addressed to the Assistant Secretary for Public Affairs (ASD(PA)), who is designated under sec. 4.3.2.1 as the official who shall receive and resolve petitions concerning information disseminated by the Secretary of Defense.

Location of the Information

All of the information that this petition claims is non-compliant with the information quality law and the implementing OMB and DOD information quality guidelines is contained in the report issued by DOD on August 9, 2006, entitled *Report On Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents*. The report was submitted to the committees of Congress designated in the legislation that directed preparation of the report (see Appendix I) and to the general public.⁵ The report is available at

⁴ The DOD guidelines exempt information "that has previously been disseminated to the public and is subsequently presented to Congress as part of the legislative or oversight processes . . . and information . . . provided to Congress in connection with pending or proposed legislation." This exemption conflicts with both the information quality law, which contains no exemptions, and the OMB guidelines, which require that agencies "ensure that their own guidelines are consistent with these OMB guidelines" and which does not contain an exemption like that in the DOD guidelines. 67 FR 8453 1st col., and 67 FR 8469 3d col. (exemptions specified). Moreover, the report at issue here does not come within the (invalid) exemption in the DOD guidelines because it was neither previously disseminated to the public and then subsequently presented to Congress nor provided to Congress in connection with pending or proposed legislation. The report was provided to Congress and the public simultaneously and in response to the already-enacted legislation in Appendix I.

⁵ See, e.g., the press releases by the American Forces Press Service headlined "Lawmakers, DOD take aim at payday loan sharks." Available at <http://www.af.mil/news/story.asp?id=123026355> and http://www.navy.mil/search/display.asp?story_id=25394. Those releases incorrectly describe the report as a GAO report. GAO did issue a report in 2005, but, as discussed below, it concluded that "[t]he extent to

http://www.usa4militaryfamilies.dod.mil/dav/lsn/LSN/BINARY_RESOURCE/BINARY_CONTENT/2141721.pdf .

The report includes some discussion of a number of types of short-term, fee-based, non-amortizing lending (sometimes referred to generically as types of “subprime” lending).⁶ However, the report focuses predominantly on payday lending, and therefore this petition focuses mainly on those portions of the report that address payday loans.

Information That Petitioners Claim Must Be Corrected

As a general matter, the information in the DOD report is “incomplete” and lacks “objectivity” and “utility” because Congress directed that “[t]he report shall be prepared in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation” The report states only that Treasury, the Federal Reserve, and the Federal Deposit Insurance Corporation “were consulted” (p. 3), but there is no indication of their active participation in preparation of the report, who was involved, what they contributed, or whether they agreed with various aspects of the report. In fact, statements cited in the documentation section of this petition in studies or commentaries that were authored by Treasury, the Federal Reserve, FDIC, and GAO, or offices or personnel of those entities, give reason to suspect that those organizations might well have disagreed with information challenged in this petition.⁷

More specifically, the information claimed to be non-compliant and that therefore must be corrected or withdrawn includes:

1. Statements that all payday loans are, without qualification, “predatory”, and statements indicating that certain factors or loan characteristics are generally considered to be “predatory”.

which active duty servicemembers use consumer loans considered to be predatory and the effects of that borrowing are unknown” At 3. (See also the section on documentation.)

⁶ The report does not address all types of what would be considered subprime lending. For example, it does not address subprime mortgages or subprime bank installment loans.

⁷ *E.g.*, Treasury Department Report 3076, July 15, 2000, at 1; Federal Reserve comment letter on GAO report 04-280, January 16, 2004; FDIC Office of the Inspector General Audit Report No. 06-011, June 2006, at 4-5; Comptroller of the Currency Advisory Letter AL 2003-2 and AL 2003-3; GAO Report 05-349, “Military Personnel: DOD’s Tools for Curbing the Use and Effects of Predatory Lending Not Fully Utilized”, April 2005, at 3, 4, 7, 8; GAO Report 04-280, “Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending” at 18-19; Flannery M and Samolyk K, “Payday Lending: Do the Costs Justify the Price?” (FDIC Center for Financial Research Working Paper No. 2005-09); Hanson S and Morgan DP, “Predatory Lending?”, Sept. 9, 2005 (the authors are at Harvard Business School and the Federal Reserve Bank of New York, respectively); Goldstein G, “Understanding Predatory Lending: Moving Towards a Common Definition and Workable Solutions,” Joint Center for Housing Studies, Harvard University, 1999. See also the documentation section of this petition.

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2. Statements regarding payday lending practices that are not substantiated and shown to be factually and analytically accurate, such as “75% of payday customers are unable to repay their loan within two weeks and are forced to get a loan ‘rollover’ at additional cost.”
3. Statements that payday lenders, without qualification, “target” military personnel and prey on them, and are “predatory” because payday lenders concentrate their facilities near military installations.
4. The use of anecdotes to purportedly demonstrate that payday loans are predatory and cause military personnel to get trapped in a cycle of debt and cause readiness problems.
5. Statements that all payday loans set a “debt trap”, forcing borrowers into numerous costly rollovers.
6. Statements that short-term payday loans are “usurious” or “predatory” if their short-term fees would convert into an annual percentage rate (“APR”) in excess of 36 percent.
7. Information on the analyses and conclusions provided by Treasury, the Federal Reserve, and FDIC through the consultations required by the statute directing preparation of the report, but that is not presented, must be provided. In addition, other factual information that is readily available from industry, academic and governmental sources regarding payday lending, but that is not noted in the report, should be considered and included in the report.

All of the above non-compliant statements and information (and omissions) are pervasive in the report and fundamental to its overall thrust, and therefore the corrections sought are not only that the individual statements be removed and corrected, but that the entire report must be withdrawn and redone.

Reasons Why the Challenged Information Is Non-Compliant

Applicable Information Quality Requirements

When the Paperwork Reduction Act of 1995 (“PRA”), 44 U.S.C. § 3501 *et seq.*, was enacted as a reauthorization and expansion of the 1980 version of the Act, Congress recognized the great impact that government information could have on decisions made in both the public and private sectors, and consequently it added new requirements for federal agencies to ensure and maximize information disseminated to the public. To achieve this goal, Congress directed OMB to issue “policy and procedural guidance” to the agencies, and directed agencies to comply with the OMB guidance. In 2000, after OMB had failed to issue the required guidance, Congress passed supplemental legislation directing OMB to issue such guidance within one year, and for the agencies to issue conforming guidance within the following year. The 2000 legislation also gave affected persons the right to “seek and obtain” correction of information that does not comply with the law and OMB and agency guidance. The 1995 Act and the 2000 supplemental legislation are herein referred to together as the information quality “law.”

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The information quality law and OMB and DOD guidelines define “quality” as encompassing “objectivity” and “utility”⁸, and then define “objectivity” and “utility” as minimal standards. Sec. 3.2.2. The guidelines also include higher standards for “influential” information. This petition references the DOD guidelines, unless they differ materially from the OMB guidelines, in which event the OMB guidelines would control under the law.

“Objectivity”: The DOD guidelines define “objectivity” (Attach.2, sec. 8) as requiring that information be –

- “presented in an accurate, clear, complete, and unbiased manner”
- presented “in the proper context” to ensure that it is accurate, clear, complete, and unbiased
- DOD “must identify the sources of the disseminated information (consistent with confidentiality protections)”
- “in a . . . financial . . . context, the supporting data and models [must be presented], so that the public can assess for itself whether there may be some reason to question the objectivity of the sources”
- “In a . . . financial . . . context, the original and supporting data shall be generated, and the analytical results shall be developed, using sound statistical and research methods.”

“Utility”: The DOD guidelines define “utility” as a term that “[r]efers to the relevance and timeliness of information to its intended users, including the public. . . .” Attach. 2, sec. 12.

“Influential information”: Information that is “influential” financial information must meet a higher standard of quality, principally with regard to the transparency of supporting data and methodology. “Influential” financial information means that one “can reasonably determine that dissemination of the information will have or does have clear and substantial impact on important public policies or important private sector decisions.” Attach. 2, sec. 3. In dissemination of influential financial or statistical information “a higher quality standard than that of peer review is warranted. To ensure the objectivity of influential, scientific, financial, or statistical information it must be capable of being substantially reproduced in accordance with commonly accepted scientific, financial, or statistical standards. The reproducibility standard . . . is intended to ensure disseminated information is sufficiently transparent in terms of data and methods of analysis, that it would be feasible for a replication to be conducted.” Sec. 3.2.3.1.⁹

The DOD report at issue is “influential information” because it will have a “clear and substantial impact” on the important public policy decisions of whether to enact some form of federal legislation to address predatory lending practices directed at military personnel or their families. And clearly the information in the report is presented “in a financial context.”

⁸ The law and guidelines also use the term “integrity”, but that term is not relevant here because it concerns the security of information.

⁹ See also Attach. 2, sec. 8.2.2.

The Principal Non-Compliant Information and the Reasons It Is Non-Compliant

1. *The report does not utilize a definition of “predatory” lending that meets the basic standards of “objectivity” or “utility” and the higher standards for “influential financial information.” Instead, it utilizes various definitions that are clearly self-serving, biased, have no sound basis in fact or financial analysis, and are at odds with views on defining “predatory” lending provided by expert government entities, including those that Congress directed DOD to consult with in preparation of the report, the GAO, and the great majority of States.*

Congress directed DOD to report on “predatory lending practices directed at members of the Armed Forces and their families” and the effects of those practices. The Congressional directive defines “predatory” as “unfair or abusive.” The report never addresses the Congressional definition whatever, and does not attempt to apply it in an objective manner. Instead, the report adopts several definitions or explanations of “predatory lending” that ensure that all payday advances, from the beginning and without qualification, will be considered predatory.

The first definition or explanation occurs at pages 2-3, where the report states, without citing any supporting data whatever, that predatory lending is “generally considered” to include “one or more” of multiple characteristics. The definition/explanation is then followed by the internally inconsistent statement that the effects of such loans include “whether” they have certain effects, without stating that they actually do have such effects. None of those “effects” is supportable with regard to payday loans.

The second definition or explanation occurs at page 4, where the report states that payday loans are “predatory” because they share six “characteristics” with four other types of “predatory” loans. The report does not indicate the source of these stated characteristics, and it does not even attempt to explain, with sound supporting data and analysis, how those characteristics apply to payday loans.

The third definition or explanation occurs at pages 13-14, where the report indicates support for a definition based on eight characteristics supplied by the Center for Responsible Lending (“CRL”), an advocacy group that vehemently characterizes payday loans as “predatory.” There are no other supporting sources, data, or analysis given for this list of “predatory” characteristics and how they apply to payday advances, and the CRL paper cited as support (p. 13 n. 17) does not provide sources.¹⁰

As an initial general matter, the DOD definitions or explanations of payday loans as “predatory” are so complex and muddled that they lack “objectivity” because the controlling definition of “predatory” utilized by DOD is not “clear.” The various definitions or explanations

¹⁰ When a federal agency relies on or adopts information from an outside party, that outside information must also meet the information quality standards, and the CRL paper on characteristics of predatory lending is as non-objective and lacking in utility as the DOD report.

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also lack “utility” because it is not clear how they relate to the Congressional definition of “predatory” as “unfair or abusive.” In order to present the “brief and simple” petition required by the DOD guidelines, this petition will illustrate how the report’s definitions/explanations are flawed and biased by selecting certain aspects of the various definitions/explanations rather than addressing every single statement. Those illustrative information quality flaws will sufficiently demonstrate that the whole report lacks the necessary objectivity, utility, and transparency/reproducibility of acceptable methodology.

There is, in fact, no generally accepted definition of “predatory lending” contrary to what DOD states at page 2. The common meaning of the term “predatory” indicates victimization. This does not fit with payday advances. No one is being victimized. The terms are clear and clearly disclosed, and borrowers willingly accept the terms. There is also a high degree of competition among lenders, and borrowers can, and do, shop among companies. In its totality, the DOD report is a plea to Congress that many of its personnel are so weak-minded and undisciplined that Congress should effectively prohibit payday loans for military personnel because such loans are a source of temptation that could result in problems if used inappropriately. DOD, however, cannot be expected to provide an unbiased view of its own personnel. The DOD view could be applied similarly to other sources of temptation – expensive cars, liquor, or gambling, for example.

One must also consider the consequences of effectively prohibiting payday loans by imposing unrealistic restrictions. This “proper context” is entirely lacking in the report. If payday advances were effectively prohibited, military personnel in need of extra cash on a short-term basis would likely turn to unregulated and genuinely unfair or abusive lending sources such as offshore Internet companies or black market lenders. These borrowers also might be forced to use other short-term credit options, such as bounced check protection plans, that frequently are more expensive than a payday loan.

It might well be that there are some companies or individuals in the payday advance business who engage in “unfair or abusive” practices; however, there is no sound basis for describing all payday advances, without qualification, as unfair or abusive. A large majority of the States -- at least 37 and the District of Columbia -- have recognized that payday lending is a legitimate credit option and have allowed such lending subject to certain restrictions on various practices. The report appears to completely discount most State legislators’ judgments on these issues and instead parrots back the inaccurate, unsubstantiated and clearly biased contentions of CRL.

It appears that DOD places primary reliance for determining what is “predatory” on information provided by CRL, a single advocacy group strongly opposed to payday lending, (at 13-14), and has not adequately consulted other authorities, many of whom (Treasury, the Federal Reserve, and FDIC) DOD was required to consult with under the Congressional directive. The report provides no information at all on the “sources” for some of its characteristics of what is “predatory,” and does not even attempt to apply any sound methodology in reaching the conclusion that all payday advances are predatory. This approach to determining what is “predatory” is not “objective”; it is biased, non-transparent, and without sufficient support. None of the government authorities (more likely to be unbiased) that DOD could have consulted

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supports the proposition advanced by the DOD report that payday advances must be considered “predatory” simply because they involve “high” rates or fees, may result in refinancing, or are utilized mainly by the types of people who need them.

At odds with Treasury: In 2000, Treasury, in conjunction with HUD, issued a “Predatory Lending Report” with recommendations for legislation.¹¹ The long and detailed report begins by addressing the question “What is Predatory Lending?”. The report states (p. 1):

Predatory lending – whether undertaken by creditors, brokers, or even home improvement contractors – involves engaging in deception or fraud, manipulating the borrower through aggressive sales tactics, or taking unfair advantage of a borrower’s lack of understanding of loan terms. These practices are often combined with loan terms that, alone or in combination, are abusive or make the borrower more vulnerable to abusive tactics. [Emphasis added]

The Treasury-HUD report does not attempt to define “abusive” terms, but it then describes “excessive fees and ‘packing’” as “fees that far exceeded what would be expected or justified based on economic grounds, and fees that were ‘packed’ into the loan amount without the borrower’s understanding.” At 2.

The Treasury-HUD report also states that “[d]efining practices that make a loan predatory, however, is a problematic task.” Any list of predatory practices “does not consider the context in which the alleged abuse has occurred.” At 17.¹²

According to the DOD report (p. 2), in contrast, a payday advance loan is “generally” considered “predatory” (*i.e.*, “unfair or abusive”) if it simply carries “[h]igh interest rates and fees”. And on this basis, DOD considers all payday advances to be predatory. This is at odds with the definition/explanation provided by Treasury (and HUD). There is no evidence given in the DOD report that all payday loans (or even many) involve the characteristics described by Treasury. The DOD view is not objective; rather, it is inaccurate, biased, and unsupported.

At odds with the Federal Reserve Board: On January 16, 2004, the Federal Reserve Board provided comments on the GAO draft report (issued in final as GAO Report 04-280)¹³ on challenges in protecting consumers from predatory lending. The Board stated (p. 1):

¹¹ Fn. 7, *supra*.

¹² See also Comptroller of the Currency Advisory Letters 2003-2 and 2003-3, which recognize that there is no comprehensive definition of “predatory” or “abusive” lending practices, but that a fundamental characteristic is lending to individuals “who simply cannot afford the credit on the terms being offered” and that typically such loans involve underwriting simply on the basis of the liquidation value of the collateral. Payday advances do not allow lenders to foreclose on any collateral, so default is not in their interest as it is in those situations described by the Comptroller General. See also Advisory Letter 2000-7 on “Abusive Lending Practices”.

¹³ Fn. 7, *supra*.

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As the [GAO draft] report notes, there is no precise definition of predatory lending in any federal statute. The term in common parlance, however, is generally used to describe cases in which a broker or lender takes unfair advantage of a borrower, often through deception or fraud to make a loan that is not in the borrower's interest.

Payday loans do not generically involve deception or fraud, and there is no evidence in the DOD report that most such loans are not in the borrower's interest or take unfair advantage.

A recent paper by authors affiliated with the Federal Reserve¹⁴ defines predatory lending in terms of its economic effects as a “welfare reducing” practice that can occur “if lenders dupe gullible households into *over*-borrowing and higher delinquency,” and it finds (albeit with limited data) “little evidence of excessive debt or delinquency in states that allow payday loans . . . even for potential targets” The DOD report does not present evidence of excessive debt or delinquency among the general population of military borrowers; instead it selectively presents mere anecdotes of individuals who experienced encompassing financial problems, which are not shown to be representative of military personnel generally, and does not examine whether payday loans in general are beneficial or adverse (welfare-reducing). The DOD report's characterization of all payday advances as “predatory” (“unfair or abusive”) is not supported by relevant methodology – *i.e.*, with consideration of the economic effects of payday loans on a broad basis rather than in anecdotes. And even the anecdotes concerning payday loans do not show that payday advances caused the individual financial problems described.

At odds with FDIC: In June 2006, the FDIC Office of Inspector General, an independent authority within FDIC charged with assessing FDIC operations, issued Audit Report No 06-011 on “Challenges and FDIC Efforts Related to Predatory Lending.”¹⁵ The report stated:

Identifying or recognizing predatory lending in a specific loan transaction can be a challenge because each loan transaction must be viewed in its totality, including the associated marketing practices, terms of the agreement, various parties involved in the loan transaction, and financial sophistication of the parties involved. As a result, there is no simple “checklist” to follow in identifying predatory lending. . . . When used in an unfair, abusive, or deceptive manner and depending on the circumstances faced by the specific borrower and the borrower's financial sophistication, the activities could, in fact, be predatory.

In contrast, the DOD report assumes that all payday loans (or the great majority) are inherently “predatory” because they involve high rates and fees or have other “checklist” characteristics such as the mere presence of company facilities in the general vicinity of military installations.

¹⁴ Hanson and Morgan, *supra* n. 7, emphasis as in original. (We recognize that an FDIC “working paper” does not represent a formal policy position of the FDIC.)

¹⁵ Fn. 7, *supra*.

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A recent “working paper” authored by FDIC staff employs a transparent economic/financial/statistical methodology to examine whether payday advance rates are unjustifiably high.¹⁶ The study uses data provided by two large payday lenders on costs and profitability to examine how profitability is related to the borrowing patterns of customers, default losses, store characteristics and local economic and demographic conditions. It finds that costs and loss rates justify a large part of the rates charged and does not find that economic and demographic conditions where stores are located have much effect on profitability, although they slightly influence default losses. This study indicates that many payday advance rates are not “unfair or abusive” when considered from an objective point of view.

At odds with GAO and DOD’s own data: Just last year, the U.S. Government Accountability Office (“GAO”), the audit, evaluation and investigative arm of Congress, produced a report on potential predatory lending to military personnel.¹⁷ The report was requested by Senator Durbin (D-IL) due to DOD’s “continuing concerns about servicemembers’ use of predatory consumer loans.” This report is not cited or discussed in the DOD report.

The initial question that GAO addressed was: “To what extent do active duty servicemembers use consumer loans considered to be predatory in nature?” At 2. The report states that “[p]redatory lending’ has no precise definition, but is generally used to describe cases in which a lender takes unfair advantage of a borrower, sometimes through deception, fraud, or manipulation, to make a loan that contains terms that are disadvantageous to the borrower.” At 1. This statement is then qualified by a footnote referencing a 2004 GAO report¹⁸ which stated that “some lending practices are widely acknowledged to be predatory and include charging excessive fees and interest rates, repeatedly rolling over or refinancing loans without economic gain for the borrower, falsifying documents, and intentionally misinforming borrowers about the terms of their loans.” At 1 n. 1. The 2004 GAO report referenced in that note discusses “The Nature and Attributes of Predatory Lending” in the context of the mortgage lending industry, and it describes “excessive fees” as “fees that greatly exceed the amounts justified by the costs of the services provided and the credit and interest rate risks involved”, and “excessive interest rates” as rates “that far exceed what would be justified by any risk-based pricing calculation.” At 18. It then notes that “certain loan attributes [that might be considered “predatory”] may or may not be abusive, depending on the overall context of the loan and borrower.” *Id.*

After an extensive review of data, and interviews and focus groups, GAO reported: “The extent to which active duty servicemembers use consumer loans considered to be predatory in nature and the effects of such borrowing are unknown, but many sources suggest that providers

¹⁶ Flannery M and Samolyk K. 2005. “Payday Lending: Do the Costs Justify the Price?,” FDIC Center for Financial Research Working Paper No. 2005-09. (We recognize that this paper does not represent a formal FDIC position.)

¹⁷ *Military Personnel: DOD’s Tools for Curbing the Use and Effects of Predatory Lending Not Fully Utilized*, GAO-05-349, April 2005.

¹⁸ *Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending*, GAO-04-280, January 2004.

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of such loans [of four types: payday, rent-to-own, automobile title pawn, and tax refund] may be targeting servicemembers.” At 3, 7 The report then states that “DOD is unable to quantify the extent to which the loans [of the four types] have associated predatory practices, the frequency of borrowing, the amounts borrowed, or the effects of the loans.” At 4, 7. It is not apparent from the current DOD report what data DOD now has that it was unable to provide to GAO then that allows it to make unequivocal statements to Congress on those subjects.¹⁹ The 2005 GAO report notes that “[t]he lack of precision in the definition [of predatory lending] is found in DOD’s acknowledgement that the four types of loans may (i.e., not always) contain predatory lending practices, but other DOD statements state that payday lending is predatory, without including a qualifier.” At 8.²⁰

At odds with most States: Thirty-seven States plus the District of Columbia have affirmatively authorized payday loans as exceptions to State usury limits.²¹ These States (and D.C.) have all clearly determined that such advances, under the conditions imposed, are not “unfair or abusive”, contrary to the DOD’s (unsupported) conclusions. The significance of limitations on rollovers by most States is discussed below in a separate section.

It also should be noted that DOD’s statements and conclusions appear to be in many cases at odds with the facts relating to industry practices and data. Given that the payday loan industry is generally recognized as a legitimate and substantial industry – with over 22,000 stores nationally that engage in roughly 100 million payday transaction annually, providing \$40 billion in credit – it is inconceivable that detailed factual data provided by industry was not reviewed and considered by DOD if it was seeking to present an accurate and balanced report. However, there appears to be no indication that DOD really consulted with industry representatives, who often may be the best sources of much relevant data, to obtain information, or that it undertook an independent inquiry to determine key facts regarding industry practices.

2. *The report’s assertions that payday lenders in general “prey” on and “target” military personnel by “concentrating” their facilities in the general vicinity of military installations lacks any sound factual or analytical basis and are not*

¹⁹ The 2005 GAO report also stated: “While DOD is unable to quantify usage and effects, consumer advocates, state government officials, DOD officials, and servicemembers in our focus groups indicated that military personnel are being targeted by some predatory lenders and are adversely affected when they use businesses that employ predatory lending practices.” At 4, 7 (emphasis added).

²⁰ The GAO report also indicates that some servicemembers in the report focus groups regarded “stores and car lots” near military installations as engaging in predatory targeting. At 26. This further indicates the lack of precision in any definition of predatory lending or “targeting.”

²¹ See Appendix I for a current listing of those States, and the specific statutory provisions regarding rollovers. Table I of FDIC Working Paper No. 2005-09 by Flannery and Samolyk contains a listing of those States as of 2004, with information on whether they set a maximum on fees. (The table indicates that 10 do not set a limit.) Their table also lists the “effective maximum APR on a 14-day \$100 loan” allowed in each State. Those limits range from 309% to 1980%, with an average roughly in the 390-520% range.

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responsive to the Congressional directive, and therefore they lack objectivity and utility.

Congress directed DOD to furnish a report providing information on the “prevalence” of predatory lending “practices directed at” military personnel. (Appendix I, emphasis added.) Instead, the DOD report provides selective information on payday facilities located in the general vicinity of certain military installations. The report apparently assumes, without support and in a biased manner, as discussed above in section 1, that all payday lending is “predatory,” and therefore locating any payday facilities in the vicinity of military installations means that payday advance lenders are “targeting:” military personnel by concentrating on their “prey.” Providing information on payday facilities in the vicinity of some military installations is not responsive and relevant to the Congressional directive. And since Congress is the principal intended audience of the report, that information in the report lacks utility.

The information on “targeting” and “concentrating” of military personnel, and particularly the maps used to support such assertions, lacks objectivity because it lacks any sound supporting methodology and omits proper context and related information. There is no data presented on how the particular geographic areas in the maps were chosen and why such limited geographic information is presented. The maps do not demonstrate “concentration” in the sense of undue emphasis, since there is no sound statistical comparison with geographic areas not containing military installations but having similar demographic characteristics. The maps also do not take into account that military installations are supported by a very large and diverse population of non-military businesses and personnel in their vicinity.

If payday facilities are concentrated near military installations on a national basis, there is no explanation for why military loans account for such a small percentage of the industry’s overall borrowers. Moreover, the maps are not even “clear” in supporting the proposition that payday lenders “target” military personnel in those geographic areas represented. For example, the maps of the San Diego, Hampton Roads, and Duval County, Florida areas support only the proposition that fairly large numbers of payday lending facilities are located throughout areas with high population concentrations, both military and non-military. And the maps also show a prevalence of banks near the installations. It is not clear why the banks are therefore not also considered to be targeting and preying on military personnel.

All of the information on “targeting” and “concentration” in general lacks any utility because it simply assumes that all payday facilities near military installations are “predatory.” As discussed above in section 1, this assumption and the information based on it lack objectivity and utility. The maps and related information on targeting also omit important information needed to provide context to support that assumption. Six of the seven States partially covered in the “targeting” maps either do not allow any rollovers whatever or only allow them if there is no charge. (KY, TN, WA, CA, FL, and VA – see Appendix IV.) As will be discussed below, the whole notion of predation by payday lenders falls apart if it is understood that in such cases the payday lenders cannot allow rollovers or can allow them only with no charge. In those areas, there cannot be any so-called “debt trap” (p. 15), and payday lenders are not being “unfair or abusive.”

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- 3. Anecdotal (“case study”) information presented in the report (pp. 39-42) that purports to be “information on the impact of predatory loans” (p. 39) (including payday loans) lacks objectivity and completeness and is clearly not sound methodology, while being emotionally loaded. The anecdotal information omits important information on State limitations on rollovers that would provide proper context, and is also biased in purporting to indicate that the problems described were caused by unfair or abusive payday loan practices by lenders, when in fact the information should only be taken to indicate inappropriate use (or abuse) of payday loans by the servicemembers.***

The report presents thirteen anecdotes involving payday loans obtained by servicemembers who got into serious financial difficulty, and indicates that the anecdotes illustrate the effects of predatory payday lending because the borrowers became “trapped.” Examining the information on State limitations on rollovers of payday loans in Appendix IV will show that in every instance involving payday loans, the servicemember was stationed in a State that either prohibits rollovers or allows rollovers only if they are at no charge, or the anecdote does not identify the State where the servicemember obtained the loan(s). If this context were provided in the report, it would be apparent that the servicemembers’ problems were not due to “unfair or abusive” lending practices, but rather due to other reasons, such as inappropriate use (or abuse) of the payday loans or of their other sources of credit (*e.g.*, credit cards) by the borrower.²² Moreover, the anecdotes in no way show that the servicemembers’ financial problems were caused by the payday lending, and therefore they are completely lacking in utility for documenting the “effects” of payday loans.

- 4. The report asserts that payday loans are “debt traps” because “[t]he two-week loan payday lenders claim they are providing is virtually non-existent” as a result of borrowers having to “repeatedly roll over or renew” them, with the consequence that “the average borrower pays back \$834 for a \$339 loan.”***

This is but one of the many egregious examples of biased, inaccurate, unsupported, and incomplete information presented in the report with regard to payday loans.

As shown in Appendix IV, and as has been discussed above, the great majority of States greatly restrict rollovers or require that they be provided at no charge. Most of the many States that authorize payday loans permit no rollovers, require them to be made at no charge, or limit them to between 1 and 4, in line with industry “best practices.” Only a few have no limits on rollovers.

The information provided in the report at pp. 14-15 on how payday loans are a “debt trap” does not present this information in a proper context, and the calculations presented lack support and are almost certainly inaccurate. There is no source given for the assertion on p. 14

²² It might be noted that in the case of anecdote “n” the servicemember had taken out a car loan for \$37,500; and in the case of anecdote “r” (although apparently not involving a payday loan) the servicemember had taken out a car loan for \$42,000.

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that “75% of payday customers are unable to repay their loan within two weeks”²³ (p. 14), and the calculation that “the average borrower pays back \$834 for a \$339 loan” (p. 15) is not supported by the data provided to purportedly support it. The calculation is based on data from only six States, and five of those States (WA, FL, OK, VA, and IA) do not allow any rollovers or allow them only with no charge, while the sixth (CA) permits only one rollover. (See Appendix IV.) The calculation of \$834 for a \$339 loan is based on the assumption that a \$339 payday advance is rolled over nine times. This is clearly inaccurate. All one could ascertain from the data presented, if it were presented “in a proper context” as required, with information of restrictions on rollovers, is that the data from the six States indicate that average borrowers took out nine different payday loans – *i.e.*, on different occasions for different purposes, rather than as rollovers or back-to-back as indicated in the report. In that event, the data shows only that borrowers were able to obtain up to \$3,051 in payday advances at a cost of \$495.

Borrowers are not necessarily being “trapped” by payday loans -- they might well be using them in an economically advantageous manner.

- 5. The assertion that payday advances in excess of 36% APR are “usurious,” and that a 36% cap is necessary in order to prevent “unfair or abusive” payday lending practices, is seriously misleading, inaccurate, and presented without proper context and in an incomplete manner. It also lacks utility because it is not relevant and responsive to the Congressional directive.***

This assertion is apparently an attempt to mislead Congress by taking the Congressional definition of “predatory” as “unfair or abusive” and turning it into “usurious.” Pp. 2, 46, 49, 50, 56. The term “usury” is usually used as a legal term of art to indicate interest rate ceilings above which rates are regarded by authorities as excessive. Many States do have “usury” caps, but the great majority of States (see Appendix IV) do not consider rates for payday loans that would translate into an APR far above 36% to be “unfair or abusive.” The report does not discuss this and therefore it is incomplete and fails to provide proper context.

The reason the great majority of States allow payday loans that could be translated into a high APR is that an APR is not the appropriate metric for such loans. Most States impose tight restrictions on rollovers of payday advances (as do industry Best Practices), so that it is not possible to renew them for more than a month or two, if at all. Thus, an “annual” metric is not relevant (and lacks utility), and an APR probably does not even constitute meaningful information to most borrowers.²⁴ Converting payday advance rates into an APR inflates the appearance of the rates in a manner that is both irrelevant and biased. The APR calculation requires the assumption that a 2-week loan is rolled over 25 times. In reality, this virtually never happens, and State laws typically prohibit or severely limit rollovers. Thus, focus on APR, without a balanced explanation, presents a very misleading picture. When payday loans are used as intended, they can be an appropriate and useful credit instrument, particularly when one

²³ Even if this were true, it does not indicate that payday advances are causing financial problems, especially not to the extent indicated in the report.

²⁴ Imagine requiring banks to disclose ATM fees in terms of an APR.

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examines the alternatives, such as bounced check fees, overdraft protection, credit card late fees or cash advance fees that may often be more costly.²⁵

Congress did not ask DOD to prepare a report on “usurious” interest rates; it directed preparation of a report on the prevalence of “unfair or abusive” lending practices. The report never addresses the Congressional request and substitutes its own (unrequested) information. That DOD information therefore lacks “utility” because it is not “relevant” to its main intended audience.

An accurate and properly supported discussion of whether payday advance rates are “unfair or abusive” would, as other government authorities have illustrated, have to be based on consideration of factors such as cost of services, risks, and margins. The report does not consider any of these factors. Since the report is clearly “influential” financial information, it is especially defective and non-compliant in not discussing what would be “unfair or abusive” rates in a manner utilizing sound and transparent facts and methodology designed to produce objective and reproducible findings. The report does not provide any data or methodology whatever indicating how it arrived at a conclusion that a 36% APR for payday loans is necessary in order to avoid predatory practices. The number seems to appear out of thin air.

- 6. The report lacks any information concerning the conclusions it obtained through the consultations with the heads of Treasury, the Federal Reserve, or FDIC that were required by Congress, and therefore the report lacks objectivity and utility. In fact, as discussed above, the report’s views on what constitutes “predatory” lending practices is at odds with previously-expressed views of those entities and their personnel.***

When Congress directed such consultation, it was presumably for the purpose of attempting to ensure objectivity in a report that otherwise could be self-serving. Without information on those consultations, the report must be considered biased, incomplete, and lacking in relevance and utility.

Corrections Sought

(1) Remove all references to payday loans as “predatory,” and all reliance on inaccurate facts and on unsupportable claims regarding what practices or loan terms may be predatory. This is particularly important if that term is used in a context that indicates such lending is inherently predatory without consideration of “unfair or abusive” practices that might be employed by some lenders (if the prevalence of such practices can be documented in a sound

²⁵ As Flannery and Samolyk state in their FDIC working paper (see documentation section and App. II, at 4): “[W]hen someone needs to raise cash quickly (and for a short period of time), a payday loan can be the most cost-effective alternative compared with late-payment fees, overdraft-protection charges, and the costs associated with bounced checks.” CRL estimates that a typical overdraft fee (\$26.90 fee for a one-week \$80 overdraft loan) translates into an APR of 1,753%. “Overdraft Loans: Survey Finds Growing Problem for Consumers”, Center for Responsible Lending, April 24, 2006 (CRL Issue Paper No. 13), at 4, available at http://www.responsiblelending.org/pdfs/ip013-Overdraft_Survey-0406.pdf.

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fashion). Substitute discussion, based on sound data and methodology, on the prevalence of any genuinely “unfair or abusive” practices associated with payday loans.

(2) Remove all references to targeting and concentration of payday facilities near military installations. This includes removing the maps in Appendix 2, and general references on any such maps to “predatory lenders.” Substitute factual and unbiased information on the prevalence of any “unfair or abusive” practices directed at military personnel or their families.

(3) Remove all references to payday loans as a “debt trap”, or similar wording. Add to the report information on State limitations on rollovers and how some servicemembers seek to circumvent those limitations. Remove, correct, or carefully qualify the calculations of payday loan costs and usage (*e.g.*, on pp. 14-15) accordingly, and supply sound supporting data and methodology.

(4) Remove all unconfirmed statements purporting to be “fact” and the anecdotes (or “case studies”) at pp. 39-42 that refer to payday loans. Also remove the language indicating that the financial problems indicated in those anecdotes demonstrate the “effects” of payday loans, and all unfounded claims that payday loans “cause” financial and/or readiness problems for military personnel.

(5) Remove all references to rates above 36% APR as being “usurious.” Substitute discussion of State rate limits on payday loan rates and the reasoning underlying the many State authorizations of payday advances in the context of discussing what rates can be supported as not “unfair or abusive.” Any discussion of appropriate rate ceilings must be presented in the context of the Congressional directive to provide information on lending that is “unfair or abusive” and must include an objective definition of those terms. Any discussion of appropriate rate ceilings and rates that are “unfair or abusive” also must be based on transparent and sound data and research methods that consider factors necessary to financial analysis, such as cost of service, fixed costs, default rates, transaction volumes, margins, revenue flows, willingness to pay, and alternatives.

(6) Provide the details of the consultations with, and comments by, Treasury, the Federal Reserve, and FDIC. Also, the findings of GAO and State legislators should be explained. In addition, industry comments and information submissions should be described.

In view of the pervasiveness of the non-compliance outlined in this petition, it appears that the entire report must be withdrawn and redone. The 36 percent APR restriction advocated by the report would certainly act as an effective absolute prohibition on payday loans. Such drastic action should not be based on information that is pervasively non-compliant with the information quality law and guidelines. The information quality standards demand, and Congress should demand, a thorough, methodologically sound, transparent, and unbiased report prepared in active consultation with other authorities who are less likely to be biased, including especially those that were required to be consulted in the original Congressional directive, as well as GAO.

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Documentation (References) Supporting the Petition

Treasury Department Report 3076, July 15, 2000. Available at <http://www.ustreas.gov/press/releases/report3076.htm>.

Federal Reserve comment letter on GAO report 04-280, January 16, 2004. Available at pp. 108-110 of GAO report at <http://www.gao.gov/new.items/d04280.pdf>.

FDIC Office of the Inspector General Audit Report No. 06-011, June 2006. Available at <http://www.fdicoinc.gov/reports06/06-011.pdf>.

Comptroller of the Currency Advisory Letter AL 2003-2 and AL 2003-3 (2003). Available at <http://www.occ.treas.gov/ftp/advisory/2003-2.pdf> and <http://www.occ.treas.gov/ftp/advisory/2003-3.pdf>.

GAO Report 05-349, “Military Personnel: DOD’s Tools for Curbing the Use and Effects of Predatory Lending Not Fully Utilized”, April 2005. Available at <http://www.gao.gov/new.items/d05349.pdf>.

GAO Report 04-280, “Consumer Protection: Federal and State Agencies Face Challenges in Combating Predatory Lending” at 18-19, January 2004. Available at <http://www.gao.gov/new.items/d04280.pdf>.

Flannery M and Samolyk K, “Payday Lending: Do the Costs Justify the Price?”, FDIC Center for Financial Research Working Paper No. 2005-09, June 2005. Copy attached as Appendix II because not available on the Internet.

Hanson S and Morgan DP, “Predatory Lending?”, Sept. 9, 2005. (The authors are at Harvard Business School and the Federal Reserve Bank of New York, respectively.) Copy attached as Appendix III because not available on the Internet.

Goldstein G, “Understanding Predatory Lending: Moving Towards a Common Definition and Workable Solutions,” Joint Center for Housing Studies, Harvard University, 1999. Available at http://www.jchs.harvard.edu/publications/finance/goldstein_w99-11.pdf.

Information Regarding Petitioners as “Affected Persons”

An “affected person” is defined as one “who may benefit, be harmed, or otherwise affected by the disseminated information. This includes persons who are seeking to address information about themselves as well as persons who use information.” “Persons” includes groups, organizations, and corporations. Attach. 2, sec. 1.

The Center for Regulatory Effectiveness (“CRE”) serves as a watchdog on government information quality issues and monitors the quality of information disseminated by federal agencies. CRE was an initial proponent of the information quality law. See http://www.thecre.com/pdf/20021111_fedtimes-tozzi.pdf. To the extent that information,

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particularly “influential” information, that is non-compliant with the information quality legislation and guidelines is allowed to be disseminated, CRE will be regarded as not doing its job. The DOD report obviously has the potential to be highly influential by having substantial impacts not just on payday advances to military personnel, but on the payday advance industry throughout the United States, thereby affecting credit competition among all types of credit institutions. In addition, the military portions of DOD have until now not received a single information quality petition, perhaps because it is rare that DOD disseminates information that will have a substantial impact on domestic policy decisions. All of this makes it important that CRE pay close attention to the DOD report and examine its compliance with the federal information quality standards.

CRE Contacts

Dr. Jim Tozzi, in his capacity as a member of the CRE Advisory Board (see <http://www.thecre.com/advisory.html>), is the responsible CRE official for this petition. His biography is located at http://www.thecre.com/emerging/Jim_Tozzi_Bio.html. Questions concerning the petition should be addressed to William G. Kelly, Jr., CRE Western Representative, at wgkelly@tetontel.com, office address 11 Dupont Circle, Suite 700, Washington, DC 20036, telephone 202.265.2383.

Sincerely,

Jim J. Tozzi
Member, Board of Advisors
Center for Regulatory Effectiveness

Appendices (4)

cc w. app.: Hon. David S.C. Chu, Under Secretary for Personnel and Readiness and
Chief Human Capital Officer
Hon. John G. Grimes, Assistant Secretary for Networks and Information
Integration and Chief Information Officer
Leslye A. Arsht, Deputy Under Secretary of Defense for Military
Community and Family Policy
Paul S. Koffsky, Acting Deputy General Counsel for Personnel and Health
Policy
Joseph Bowab, Associate Director for National Security Programs,
Office of Management and Budget
Ira L. Hobbs, Chief Information Officer, U.S. Department of the Treasury
Steven R. Malphrus, Director, Management Division, Federal Reserve System
Michael E. Bartel, Chief Information Officer, Federal Deposit Insurance
Corporation

SEC. 579. REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on predatory lending practices directed at members of the Armed Forces and their families. The report shall be prepared in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation, and representatives of military charity organizations and consumer organizations.

(b) **ELEMENTS.**—The report under subsection (a) shall include the following:

(1) A description of the prevalence of predatory lending practices directed at members of the Armed Forces and their families.

(2) An assessment of the effects of predatory lending practices on members of the Armed Forces and their families.

(3) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to educate members of the Armed Forces and their families regarding predatory lending practices.

(4) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to reduce or eliminate—

(A) the prevalence of predatory lending practices directed at members of the Armed Forces and their families; and

(B) the negative effect of such practices on members of the Armed Forces and their families.

(5) Recommendations for additional legislative and administrative action to reduce or eliminate predatory lending practices directed at members of the Armed Forces and their families.

(c) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Financial Services of the House of Representatives.

(2) The term “predatory lending practice” means an unfair or abusive loan or credit sale transaction or collection practice.

APPENDIX II

Flannery M and Samolyk K. 2005. "Payday Lending: Do the Costs Justify the Price?"
FDIC Center for Financial Research Working Paper No. 2005-09

APPENDIX III

Hanson S and Morgan DP*. Sept. 9, 2005. "Predatory Lending?"
(*Harvard Business School and Federal Reserve Bank
of New York, respectively)

APPENDIX IV

States and Provisions of State Laws with Limitations on Rollovers
of Payday Loans or No Limitations

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Ala. Code § 5-18A-12(b) (1 rollover)

Alaska Stat. § 06.50.470(b) (2 rollovers)

Ariz. Rev. Stat. Ann. § 6-1260(I) (3 rollovers; 0 military)

Cal. Fin. Code § 23036(b) (no rollovers unless at no charge)

Colo. Rev. Stat. § 5-3.1-108(1) (1 rollover)

Del. Code Ann. tit. 5, § 2235A(a)(1) (4 rollovers)

D.C. Code Ann. § 26-319 (no limit)

Fla. Stat. Ann. § 560.404(18) (no rollovers)

Haw. Rev. Stat. § 480F-4(d) (no rollovers)

Idaho Code § 28-46-413(6) (3 rollovers)

815 Ill. Comp. Stat. Ann. 122/2-30 (no rollovers)

Ind. Code Ann. § 24-4.5-7-402(6) (no rollovers)

Iowa Code § 533D.10(1)(e) (no rollovers)

Kan. Stat. Ann. § 16a-2-404(6) (no rollovers)

Ky. Rev. Stat. Ann. § 268.9-100(15) (no rollovers unless at no charge)

La. Rev. Stat. Ann. § 3578.6(7) (no limit if borrower repays 25% of original principal)

Mich. Comp. Laws § 487.2155 (no rollovers unless at no charge)

Minn. Stat. § 47.60(2)(f) (no rollovers)

Miss. Code Ann. § 75-67-519(5) (no rollovers)

Mo. Rev. Stat. § 408.500(6) (6 rollovers if borrower repays 5% of original principal)

Mont. Code Ann. § 31-1-723(15) (no rollovers unless at no charge)

Neb. Rev. Stat. § 45-919(1)(e) (no rollovers)

Nev. Rev. Stat. 604A.480(1) (rollovers for up to 60 days after end of initial loan period)

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N.H. Rev. Stat. Ann. § 399-A:13(VII) (no rollovers)

N.M. Stat. Ann. § 58-15-1 (no limit)

N.D. Cent. Code § 13-08-12(4) (no rollovers)

Ohio Rev. Code Ann. § 1315.39(A)(5) (no rollovers)

Okla. Stat. tit. 59, § 3109(A) (no rollovers)

Or. Rev. Stat. § 725.622(4) (3 rollovers)

R.I. Gen. Laws § 19-14.4-5.1(g) (1 rollover)

S.C. Code Ann. § 34-39-180(F) (no rollovers)

S.D. Codified Laws § 54-4-65 (6 rollovers)

Tenn. Code Ann. § 45-17-112(q) (no rollovers)

Utah Code Ann. § 7-23-105(4) (no rollovers beyond 12 weeks unless at no charge)

Va. Code Ann. § 6.1-459(6) (no rollovers)

Wash. Rev. Code § 31.45.073(2) (no rollovers unless at no charge)

Wis. Stat. § 138.09 (no limit)

Wyo. Stat. Ann. § 40-14-364 (no rollovers)

Brief Summary

- no rollovers for military personnel or others: 19 States
- no rollovers unless at no charge: 4 States
- one rollover allowed: 3 States
- time limit on rollovers: 1 State
- limit of 2-4 rollovers: 4 States
- 6 or more rollovers allowed: 4 (no limits: 2 States and DC)
- other variations on limits: 3 States

Total: 37 States and the District of Columbia