Testimony Before Senate Banking Committee

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March 8, 2016

Thank you, Mr. Chairman and members of the committee for having me here today. I am Chris Henn, Executive Vice President of NCP Finance. Before I begin, I want to make a very clear statement: My company and others like it serve a woefully underserved portion of the public. We are proud to loan money...our own money... to those who can't borrow from anywhere else because of poor credit and difficult circumstances...with no collateral requirements. We serve those who are hard working but have trouble getting ahead. No traditional lender can or will do this.

As I mentioned, I am the Executive Vice President of NCP Finance. NCP is a lender in the small dollar consumer loan market serving as a non-bank financial institution. Formerly I was a Senior Vice President with Huntington National Bank, serving customers in Commercial Banking, Commercial Real Estate and Retail Bank operations meeting consumers' needs. I appreciate the opportunity to talk about this important issue and the bills being sponsored by Senator Robertson to enable continued access to credit for consumers in a post CFPB regulatory environment.

As Joann described in her testimony here before the committee, the CFPB will be promulgating rules that will dramatically change how non-bank financial institutions will offer credit in the future. While the rules will not expressly prohibit specific products that are currently being offered today in Michigan, the effect of those restrictions will make them impractical to offer. As Joann described, the rules as proposed in March of 2015 will make it impossible to offer a two week or even a 30 day balloon product, currently available as a deferred presentment loan today in Michigan.

Under the CFPB's proposal, lenders will be required (before making a loan) to undergo a full underwriting assessment traditionally used for prime to mid-prime borrower. To put this into perspective, imagine that each of you on the committee as well as our friends at the Credit Unions having to go through an underwriting assessment each time you used your credit card for more than $500.00. Worse, it would be like trying to do that for people with little documentation and credit history, which is the case for most subprime borrowers. They cannot easily prove income and ability to repay, yet they need and use the credit to cover shortages in their cash flow.

I will tell you that this type of underwriting is impractical and fails to address the consumer that we serve, who sought over $900M in such loans last year. The documentation and credit history needed to do that type of underwriting simply is not accessible or is not readily available for these types of consumers with unpredictable income. These proposed rules are discriminatory against people who need subprime credit the most. They will increase our industry's costs, which will ultimately result in our inability to make these loans at all. The deferred presentment product currently offered today in Michigan as a payday loan will no longer be viable to offer; leaving no other regulated option for subprime consumers that have no other access to credit. Additionally, an estimated 2000+ jobs associated with those businesses will be lost and the real estate occupied by the businesses will go vacant.

The opponents to these bills will suggest that the loss of a subprime credit product is a victory, but for whom. There are up to 2.3 million consumers in Michigan that use these products today or may need them in the future, and, as stated, those Michigan consumers will have no regulated option once the CFPB rules are promulgated. The Michigan legislature recognized the need for short term credit products by legalizing a payday loan product years ago. To date, those advocating for the elimination of a subprime product here in Michigan have failed to offer or suggest even one viable alternative for those 2.3 million consumers. No matter what they tell you or have told you, they are not today offering any viable alternative source of credit to the vast majority of these borrowers. If and when they do, we will welcome the competition and an opportunity to work alongside them. But in the meantime, these 2.3 million Michigan residents need access to credit, just as everyone else does.

That's why we are here to support Senate Bills 842 and 843. These bills will give Michigan consumers an alternative installment loan that will work under the CFPB rules—and is more flexible, more affordable, and a better choice for consumers than what is already legal under Michigan law.

Opponents to these bills also claim that these loans are still too expensive. Compared to the potential 3200% APR that can incur for a simple overdraft of a checking account at your credit union, or the cost of borrowing from an unregulated lender, these small dollar credit products are still a much better choice.

We could spend much of the rest of the day discussing the economics of the loan product and the businesses that offer them. However, in brief: to make a small dollar short term loan available to millions of people, companies in our industry must charge enough to cover costs of operation, which includes the risk associated with these loans, which is the single largest cost of doing business, and also to make a reasonable profit. I can assure you that if the Credit Unions had to cover the same cost of default and had to pay the cost of using private capital to fund the loans, instead of borrowing money at near 0% interest from depositors and the government, and had to pay taxes, their pricing would be comparable. .

We could debate at length the "appropriate" use of the products by customers who knowingly and responsibly choose to use sub-prime credit. The facts are still clear that up to 2.3 million people today in Michigan need these products to be available because it is a better option than bouncing a check at their credit union, missing a rent or car payment or doing without a needed repair or medical service. They ask for the credit willingly understanding their own financial situation and the terms of the loan, which are very clearly disclosed and explained. Further, the installment loan that these bills enable is a better option for consumers because the installment loan is fully amortizing. That means at the end, there is no principal left to pay, just like a mortgage, and the consumer walks away with no debt.

The suggestion that customers using a fully amortizing installment loan are trapped in a longer cycle of debt is unsupported. To the contrary, the CFPB's own research concludes that a fully amortizing multi-payment subprime loan is preferable to help consumers eliminate the "cycle of debt."

These bills will allow for an unsecured credit product, which gives subprime consumers the opportunity to pay down debt to zero on a predictable payment schedule; underwritten based on their ability to pay based upon their unique financial situation. It would provide for that longer term credit to be reported to a credit bureau in order to improve their credit history, at prices that are cheaper than what is available in the market today in Michigan. Nothing more.

What are the options?

The Credit Unions Lobby will suggest that they can fill the void in the market place. But these claims lack any merit. Credit Unions will not provide credit to the vast majority of the consumers that have FICO credit scores below 600, or have no score at all. In reality, credit unions have not and will not fill the void of the 2.3 million consumers that desire this credit product. Our customers are smart with their money, if there was a cheaper more convenient option available at all credit unions they would flock to them.

There are a small handful of credit unions that offer a product for the highest rated credit customers in the subprime market, but they do not serve the vast majority of customers. In fact there is no restriction prohibiting all credit unions today in Michigan and elsewhere from offering subprime loans to our 2.3M customers. Why haven't they? What are they waiting for?

Unless the bills that are subject to this hearing are passed, the last resort for these disenfranchised consumers will be the unregulated market – online tribal and offshore lenders that do not comply with state lending laws, or the impromptu lenders in the alleys and out of back rooms. All of which will not be inhibited to charge consumers

600%, 800% APR or more, and are less inclined to follow the strict rules of conduct required by the federal and state laws for fair, clear disclosures and collections practices. Some customers will do without needed repairs to a car that they use to get to jobs or they will resort to over drafting their checking accounts at the credit union at a cost up to 3200% APR.

However, the business model that is enabled by the clarifying language in these two bills will allow for the continuation of a regulated subprime loan product in the State of Michigan. The CSPA and the Regulatory Loan Act in Michigan are very similar to the tandem statutes that are used by NCP and other lenders in Ohio today.

But for a difference of opinion in the reading of the Regulatory Loan Act by DIFS, NCP and others would be licensed and operating in the state today, offering multi-payment fully amortizing loans to consumers, and reporting their good credit experience to a credit bureau. The same language in Ohio was interpreted by the Ohio DFI as enabling the legal operation of the CSO (Credit Service Organization) model, where we are serving millions of customers annually. When the CFPB rules take effect next year, Ohioans who need subprime loans will still have access to credit. Michiganders will be out of luck and left to the mercies of the unregulated marketplace—unless Senate bills 842 and 843 are passed.

Having experience with the CSO (Credit Service Organization) model, I can describe some specific advantages as it relates to the upcoming federal regulations. Primarily, the CSO model is a more flexible model as compared to lending products that have a set fee and term structure. Under the CSO model, the length of the loan, the amount of the loan and the all in cost to the customer are all variable based on the customer need, ability to repay, desired repayment term and credit risk. Thus the loan can be competitively tailored to the customers' needs and ability to repay. This is referred to as a risk based approach. Whether a customer needs a one month loan or a two year loan, both can be accommodated. Customers with exceedingly poor credit and customers with recovering credit can be provided credit priced to the risk and their ability to repay. And all the loans pay down over time to zero.

From a regulatory perspective the loans made under the CSO model comply with all state and federal consumer protection laws and provide full and complete disclosure about the loan terms. These same flexible attributes are what will give the state of Michigan an advantage when the CFPB enacts its new rules. As Joann stated; a longer term, multi-payment, fully amortizing loan meets the CFPBS's goals of having credit products that address the consumers ability to repay and eliminate the cycle of debt. Michigan can have this advantage by passing the bills, which will allow lenders to be licensed by DIFS.

The passage of SB842 and SB843 will allow for nothing more than a clear reading of the RLA and CSPA to provide for the separation of fees and interest when they are paid to separate entities. The calculation of interest that the lender receives will not be combined with fees paid to a third party providing services to the customer. Just like real estate broker commission and mortgage broker fees are not added to calculate the interest on your mortgage loan.

NCP and other members of the short term consumer lending industry support the passage of the bills to allow for the uninterrupted continuation of credit to consumers with challenged credit histories and few options. This is not an issue of whether you like or would personally use these products. It is a matter of whether the State of

Michigan will turn a blind eye and ignore the needs of 2.3 million people who need to have access to short term credit and will have no regulated product available to choose.

Thank you for your time. I am available for your questions.