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# Impact of High Cost Credit on Older Americans

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**Consumer Federation of America**

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## Factors Place Older Americans At Risk

- Hit by decline in equities and house values
  - More seniors carry more debt
  - Seniors increasingly file for bankruptcy
  - Mortgage debt up more than homeownership rate (Example: 75 and older with mortgage debt doubled from 1994 to 2007)
  - Must have bank accounts to get direct deposit of Social Security and pay
  - Fixed income, receive SS monthly
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## Older Americans use expensive, short-term, small loans

- Payday Loans
- Car Title Loans
- Refund Anticipation Loans
- Bank Overdraft Loans

CFA poll: 22% of HH headed by someone 55-64 and 14% of HH headed by someone 65+ use at least one of these loans. Almost 8 million households pay triple-digit interest.

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# Payday Loan Poll Question

- Q: Do your clients/constituents report any of these hardships due to using payday loans?
  - 1. Debt collector calls, threats or court filing
  - 2. Bounced checks, closed bank accounts
  - 3. Go without necessities, hard to pay bills
  - 4. Caught in cycle of repeat borrowing/debt trap
  - 5. No problems using payday loans
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# Quick Cash for Cold Checks: Payday

## Loan Basics

- Borrower writes a personal check or authorizes debit of account for amount of the loan plus the fee
  - Lender holds the check until the next payday
  - On payday, borrower can “buy back” the check with cash, pay the finance charge only and extend the loan another pay period, or let the check be deposited in the bank
  - Borrowers often take new loan same day or before next payday
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# Payday Loans are Usurious

- Fee quoted as dollars per hundred borrowed by industry
  - \$15 to \$30 per \$100 means a \$45 to \$90 finance charge for a \$300 loan
  - For a two-week loan, \$15 per \$100 is 391% APR. One week loan costs 782% APR
  - Federal Truth in Lending Act requires payday lenders to quote cost of loan as the dollar finance charge and the annual percentage rate. APR permits cost comparisons.
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# Payday Loan Industry

- 22,300 outlets in the US, 2008
  - \$35 billion in loans for \$ 5.5 billion in fees in 2008, according to Stephens Inc.
  - Internet payday lending estimated \$7.1 billion loan volume 2008 (Stephens)
  - Payday loan stores, check cashers, RTO, pawn shops, websites
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# What are the Risks of Using PDLs?

- Can't repay in full on the next payday without borrowing again, become trapped in loans
  - Check will be deposited in bank and trigger NSF fees from both payday lender and bank
  - Check will be collected unexpectedly, causing other checks to bounce
  - Lose bank account or check writing privileges due to multiple bounced checks caused by payday loans
  - Sued for nonpayment, bad credit report
  - Threatened with criminal sanctions, collection harassment, calls to references, visits to home/job
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## Payday Loans are a Debt Trap

- 80% of borrowers get more than 1 loan/yr.
  - 87% of all new loans obtained by repeat customers within next pay period, 94% within a month, and 50% at first opportunity
  - Churning, not “demand” accounts for about 76% of all payday loans
  - Average borrower has 9 loans per year
  - 90% vol. by users with 5 or more loans per year, 60% vol. from users with 12 or more
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# Why can't a borrower pay back her loan when due?

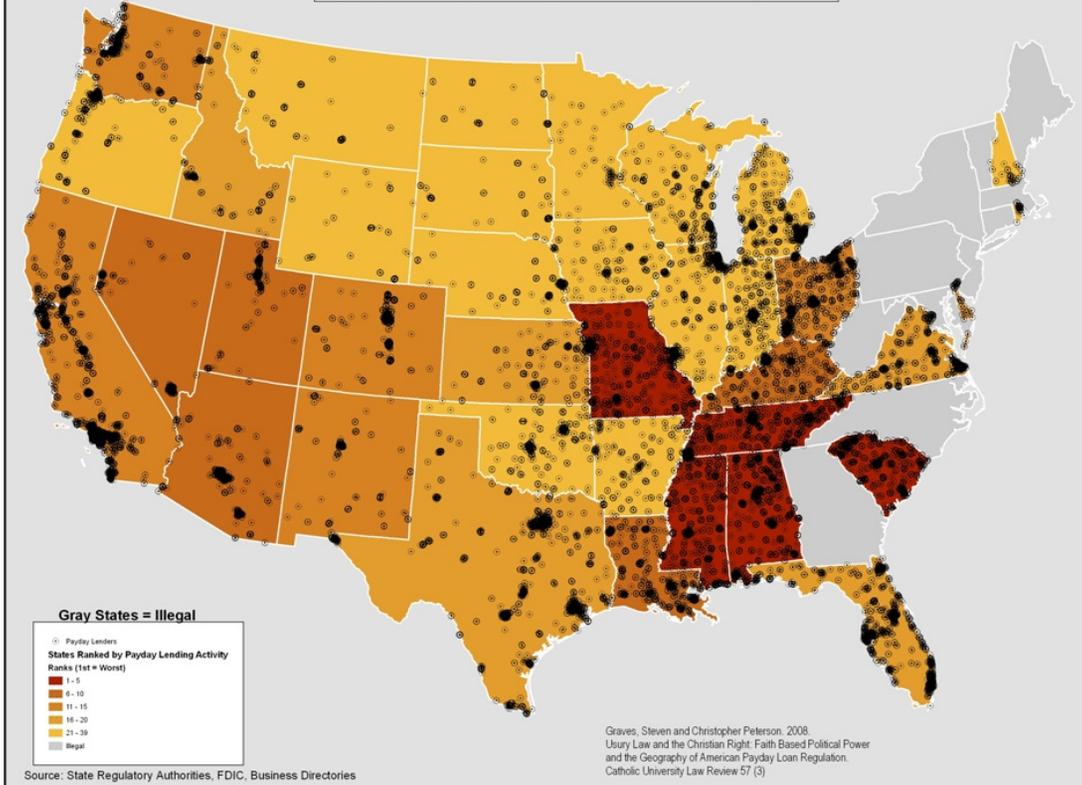
		\$35,000 Salary
Before tax income ½ mon.		\$1,458.33
Minus taxes and SS		-\$114.12
After tax income		\$1,344.21
Minus two week expenditures on food, housing, transportation, healthcare, and clothing*		-\$1,107.04
Money left over		\$237.07
Payday loan balance plus fee due		\$377.50 (\$350 loan plus \$52.50 fee)
<b>Deficit</b>		<b>-\$140.43</b>

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## Payday Loans and Older Americans

- Qualify: bank account, get regular SS payments, have ID
  - Poll: 1% of 55-64 and 1% of 65+ say use payday loans in last year = 356,200 HH
  - CO study: 55+ comprise 8.38% of borrowers
  - CA study: 12.7% of users 55-64, 6% 65+
  - Elliehausen reported 10% PDL users 55+ in 2001, 25.6% of users by 2008.
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Payday Lending Activity: U.S. States, Rankings, 2007



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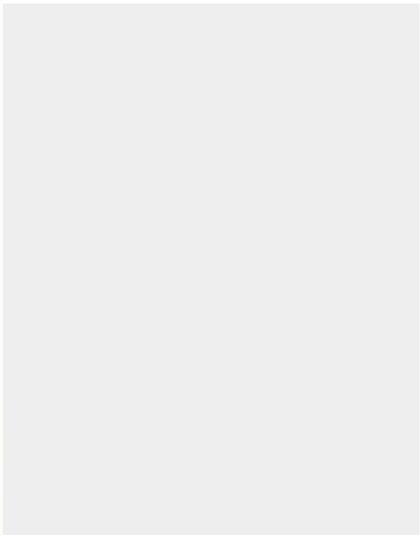
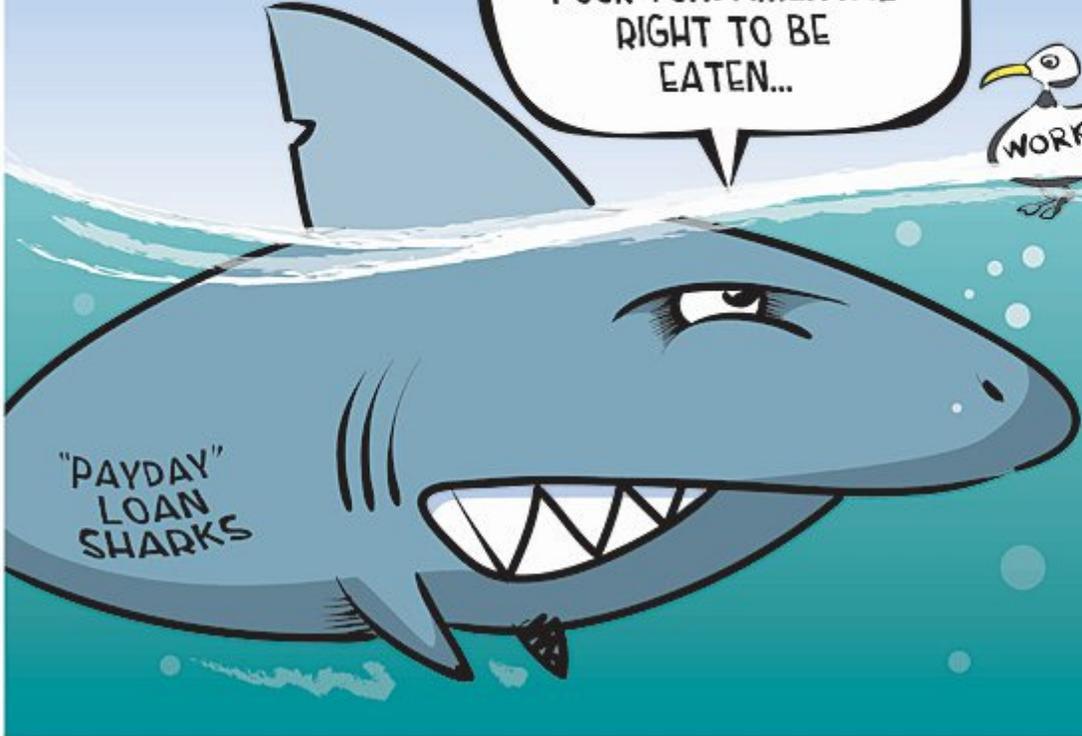
# Legal Status of Payday Lending

- 35 states authorize triple-digit interest loans secured by checks or electronic access to bank accounts
  - 15 states retain usury or small loan laws or prohibit check cashers from lending, including AR, NC, GA, NY, NJ, OH, NH, PA, CT, MA, VT, ME, WVA, OR, MD, DC (one third of U.S. population).
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SPY  
DUN

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...SO ANYWAY.  
CALL YOUR  
VIRGINIA  
LEGISLATOR  
AND DEMAND  
YOUR FUNDAMENTAL  
RIGHT TO BE  
EATEN...



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## States Roll up the Welcome Mat

- No state has authorized payday loans since 2005
  - New Hampshire enacted 36% APR rate cap
  - Oregon capped rates at 36% for one month loans, plus a one-time \$10 per \$100 fee
  - Ohio legislature passed 28% annual rate cap
  - Arkansas AG evicted PDLs, Supreme Court ruling
  - Arizona voters rejected payday loan industry ballot initiative by 60 to 40% vote, payday loan law sunsets in 2010. Bill introduced to extend law.
  - Washington set a maximum number of 8 loans/year
  - NC sunset its payday loan law.
  - DC repealed ordinance, reinstated 24% usury cap
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## Reform Opportunities

- States can reinstate usury caps, small loan rate caps
  - States can revoke special privilege laws that authorize payday lending at triple-digit rates
  - Congress can ban securing loans with unfunded checks, debits, demand drafts
  - Congress can enact a universal federal usury cap
  - FTC can apply Credit Practices Rule
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# Car Title Loan Poll Question

- Q: Do your clients/constituents report any of these problems with using car title loans?
  - 1. Repossession of vehicle
  - 2. Inability to pay other bills due to CTL
  - 3. Confusion over cost and terms of loan
  - 4. Get payday loans to repay car title loans
  - 5. No problems using car title loans
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# Driven to the Poor House: Why Car Title Loans Harm Borrowers

- Average cost 300% APR
  - Loans \$100 to \$2,500
  - Loan on asset value, not ability to repay
  - 30-day renewable contracts or lines of credit
  - Average customer renews loan 7 times (TN DFI).  
OR: 19% paid loans renewed six times.
  - Repossession
    - Less than half of repossessed cars in NM reclaimed by borrowers
    - At least 12% of customers lost cars in TN
    - 18% of borrowers at one AZ company forfeited cars
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# Title Loan Customers

- 70% earn less than \$25,000 (MO Auditor)
  - Borrowers average around \$20,000/yr (IL)
  - Borrowers average around \$21,818 (NM)
  
  - Own vehicle outright, have title
  - Hand over set of keys
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## Car Title Loans and Older Americans

- Poll: 6% of 55-64 and 3% of 65+ said used car title loans which are legal in 1/2 states
  - Over 1 million 55-64 and over 500,000 65 plus say used car title loan in last year
  - Risk loss of key asset and essential transportation
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# Legal Status of Title Lending in US

- States that authorize high cost title loans:
    - Alabama
    - Arizona
    - Delaware
    - Georgia
    - Idaho
    - Illinois
    - Mississippi
    - Missouri
    - Montana
    - Nevada
    - New Mexico
    - South Dakota
    - Tennessee
    - Utah
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## States That Cap Rates at Double-Digit Interest for Title Loans

- Kentucky: 36% APR
  - Florida: 30% APR
  - Oregon: 36% plus \$10 per \$100 initial loan
  - New Hampshire: 36% APR
  - Minnesota: 84% APR
  - In 2007, Iowa closed open end credit loophole used by title lenders, capping rates at up to 36%.
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## High Cost Title Lenders Use Loopholes to Operate in Other States

- California: Loans over \$2,500, no cap
  - Kansas: Open End credit, no cap
  - South Carolina: Loans over \$600, no cap
  - Texas: Credit Services Organization model
  - Virginia: Open End credit, no cap, no license
  - Wisconsin: Licensed lenders, no cap
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## Overdraft Poll Question

- Q. Is it legal for banks to do this when a debit card purchase or check exceeds checking account balance?
  - 1. Loan bank's money to cover w/o consent
  - 2. Charge 3,520% APR for a \$20 loan
  - 3. Pay largest transaction first
  - 4. Take Social Security deposit to pay bank
  - 5. Charge two or three fees for one overdraft
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## Overdraft Loans: How They Work

- Bank pays transaction despite insufficient funds in the bank account and charges a fee
  - Transactions include debit card point of sale, ATM withdrawals, checks, preauthorized debits from the consumer's checking account
  - Flat overdraft fee charged per overdraft
  - Overdraft and fee immediately due
  - Bank uses set off to take payment from next deposit, even if SS, Veterans' benefits, SSI
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## More on Overdraft Loans

- Most banks covers overdrafts as a “courtesy.”
  - Consumers do not affirmatively sign up for this credit product. Hard to opt-out.
  - Truth in Lending Act cost to borrow disclosures are not provided.
  - Some banks charge a second or third fee when the overdraft is not repaid in days
  - Some banks have tiered fees, escalating as more overdrafts made in 12 months
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## Cost of Overdraft Loans to Consumers

- Consumers paid \$24 billion in 2008 for overdraft loans.
  - 50 million Americans overdrew at least once in a 12-month period.
  - 27 million Americans paid five or more overdraft or NSF fees in 2008
  - Typical large bank fee is \$35 per overdraft
  - Typical debit card overdraft is just \$20
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## Bank Practices That Drive Up Fees

- Banks program computers to pay largest transactions first. On a low balance, this can result in more fees being charged as smaller payments overdraw the account. Chase processes debits as they come in.
  - Banks may accumulate transactions over a few days, then reorder them and process high to low.
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## Largest Bank's Overdraft Fees

- Range from \$19 to \$39
- 8 of largest 15 banks charge tiered fees
  - Fifth Third Bank \$25 1<sup>st</sup>, \$33 for 2<sup>nd</sup> to 4<sup>th</sup>, \$37+
- 60% of banks charge extra fees if not repaid
  - Bank of America adds \$35 after 5 days
  - SunTrust adds \$36 fee on 7<sup>th</sup> day
  - Citizens RBS charges 2 extra fees = \$109
- Daily limit on number of OD fees little benefit
- \$5 or \$10 threshold for OD fees little help

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## CFA Poll and Bank Fee Survey

- CFA released a new poll and bank fee survey February 4. Click the link below to access the press release which has links to the bank survey and to CRL's issue brief comparing the Federal Reserve Reg E rule with bills pending in Congress.

[http://www.consumerfed.org/elements/www.consumerfed.org/file/CFA%20OD%20Poll%20and%20Survey%202%204%2010\(1\).pdf](http://www.consumerfed.org/elements/www.consumerfed.org/file/CFA%20OD%20Poll%20and%20Survey%202%204%2010(1).pdf)

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## Overdrafts and Seniors

- CRL report: 55+ pay 26% of OD fees or \$4.5 billion in a year.
  - 34% of OD fees paid by seniors charged to Social Security recipients. If count 62 and older, 56% of OD fees charged to SS recipients.
  - CFA Poll: 9% of 55-64 and 5% of 65+ said they were charged for overdrafts.
  - FDIC: Median OD \$65 check for seniors
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## Older Consumers' Views on Overdraft Reforms

Reform	55-64	65+
■ ATM disclosure of OD	91%	79%
■ Banks pay checks in order	71%	61%
■ Opt-in to pay OD for a fee	76%	62%
■ Want bank to decline \$5 OD	70%	59%

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## Legal Status of Overdraft Loans

- FRB does not require banks to comply with Truth in Lending Act. Uses Truth in Savings Act to require disclosure of fees
  - No rate cap on cost of covering overdrafts
  - No ban on bank practices to drive up fees
  - Reg E rules this year. Banks will have to get consent to charge a fee for overdrafts from debit POS and ATM withdrawals.
  - No warning that ATM withdrawal will OD
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## Congress Must Curb Overdraft Abuses

H.R. 3904 (Maloney) and S. 1799 (Dodd)

Require opt in for all transactions/debit or ATM

Limit OD to one per month, up to six per year

Require fee to be reasonable, set by FRB

Real-time warning of OD at ATM (Dodd)

Prohibit large to small posting to maximize fees

Prohibit multiple fees for one OD

Prohibit OD caused by debit holds.

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## RAL Poll Question

- Q. Would you pay 50 to 500% APR to borrow your own money for less than two weeks?
  - 1. Yes
  - 2. No
  - 3. Don't know
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## Refund Anticipation Loans

- Loans made by banks, sold by tax preparers
  - Based on expected refund from IRS
  - 8.4 million taxpayers got RALs in 2008
  - 1 in 17 tax returns involved a RAL
  - Taxpayers paid \$738 million in loan fees plus over \$68 million in other fees for 2008 RALs
  - Another 12 million taxpayers spent \$360 million on refund anticipation checks
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## Major Players in RALs

- Banks: JPMorgan Chase, HSBC, Republic Bank & Trust. Meta Bank makes RACs
  - OCC stopped Santa Barbara Bank & Trust from making RALs this year
  - Tax preparers: H&R Block, Jackson Hewitt, Liberty Tax, independents
  - IRS enables RAL business by providing debt indicator and authorizing tax return information to be shared with banks
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## How RALs Work

- Tax return filed electronically
  - IRS tells bank if other claims on refund
  - Bank opens account in name of taxpayer
  - IRS direct deposits refund to bank
  - Bank takes out finance charge and fees for loans, takes out tax preparation fees, repays the loan
  - Anything left over goes to taxpayer
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## RAL Terms

- Loan term is about 7 to 14 days
  - Loan fee ranges from \$34 to \$130, include “Refund Account” fee and “Bank” fee
  - Extras charged by some preparers
  - \$3,300 RAL will cost about \$65 in 2010 and 72% APR
  - APR including fees 50 to 500%
  - If extra \$40 fee, APR ranges from 85% to nearly 1,300%
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## Legal Status of RAL Lending

- Banks export deregulated home state interest rates
  - Courts prohibit states from capping loan fees of tax preparers. States can license tax prep.
  - IRS enables RAL lending, has announced a task force to examine financial products
  - No ban on banks and tax preparers taking Earned Income Tax Credits, other transfer payments delivered by tax returns
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## RAL Users and Seniors

- 85% of RAL applicants had adjusted gross incomes of \$38,348 or less
  - 2/3 of RAL borrowers get Earned Income Tax Credit
  - LMI families with children
  - CFA poll: 7% of 55 and older obtained RALs in 2009
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## High Cost Credit Reforms Needed in States and Congress

- States with active legislation on payday and/or car title loans include Virginia, Kansas, Kentucky, Ohio, Illinois, Arizona, Missouri, Tennessee, Colorado, Utah.
  - Federal bills to curb overdraft loans, set federal usury caps, create a Consumer Financial Protection Agency
  - Bank regulators and IRS can take action to curb abuses
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# Congress Should Set a National Usury Cap

S. 500 (Durbin)

H. R. 1608 (Speier)

Cap all credit from all types of lenders at 36%  
APR including most fees and credit insurance  
premiums

Extends Military Lending Act protection to all  
Americans

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# Consumers Need an Independent Consumer Financial Protection Agency

- To protect consumers by cracking down on abuses and deceptive practices of credit card companies
  - To prevent brokers and lenders from making loans that borrowers can't afford to pay back
  - To protect consumers from intentionally deceptive products and confusing contracts
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## The CFPA should have:

- Independent rulemaking authority
  - An independent budget not solely dependent on appropriations
  - Examination and enforcement authority
  - A Presidentially-appointed leader
  - Its own staff
  - Freedom from veto by a bank regulatory agency or agencies
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## Take Action Poll

- Q. What are you willing to do to reform high cost credit?
  - 1. Join a reform coalition in your state
  - 2. Write, call, visit legislators and Congress
  - 3. Participate in a high-cost credit list serve
  - 4. Help your clients/constituents tell their stories to policy makers and press
  - 5. Testify at hearings/file comments
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For More Information:

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