



Report 4 in the *Payday Lending in America* series

# Fraud and Abuse Online: **Harmful Practices in Internet Payday Lending**

# The Pew Charitable Trusts

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## Acknowledgments

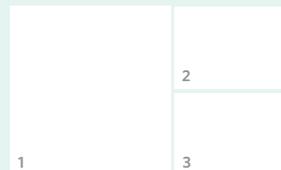
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## Overview

The Pew Charitable Trusts' *Payday Lending in America* report series has documented structural problems with payday loans, showing that they fail to work as advertised. They are packaged as two-week, flat-fee products but in reality have unaffordable lump-sum repayment requirements that leave borrowers in debt for an average of five months per year, causing them to spend \$520 on interest for \$375 in credit. This result is inherent in lump-sum repayment loans, whether from a store, website, or bank.

This fourth report in the series, *Fraud and Abuse Online*, focuses on issues that are particularly problematic in the online payday loan market, including consumer harassment, threats, dissemination of personal information, fraud, unauthorized accessing of checking accounts, and automated payments that do not reduce loan principal. Recent news coverage has detailed these problems anecdotally, but this study is the first formal analysis of online lending practices to use surveys and focus groups, consumer complaints, company filings, and information about lenders' spending on advertising and prospective borrower leads.

Many of the problems that borrowers report violate the best practices of the Online Lenders Alliance, the trade association and self-policing organization for these lenders.<sup>1</sup> Although the overall findings indicate widespread problems, abusive practices are not universal. Some large online lenders are the subject of very few complaints and are urging a crackdown on companies that mistreat customers. Aggressive and illegal actions are concentrated among the approximately 70 percent of lenders that are not licensed by all the states where they lend and among fraudulent debt collectors.<sup>2</sup>

Pew's research found that many online lending practices often have serious detrimental effects on consumers:

1. **Many online loans are designed to promote renewals and long-term indebtedness.** One in 3 online borrowers has taken out a loan that was set up to withdraw only the fee on the customer's next payday, automatically renewing the loan without reducing principal. To pay more, most of these borrowers had to make a request by phone. Other online loans increase borrowers' costs with unnecessarily long repayment periods, such as eight months to pay off a \$300 loan or by including some payments in the installment schedule that do not reduce the balance.
2. **30 percent of online payday loan borrowers report being threatened by a lender or debt collector.** Threatened actions include contacting borrowers' family, friends, or employers, and arrest by the police. Online borrowers report being threatened at far higher rates than do storefront borrowers, and many of the types of threats violate federal debt collection laws.
3. **Unauthorized withdrawals, aggressive practices, and disclosure of personal information are widespread in online lending, placing borrowers' checking accounts at risk.**
  - 46 percent of online borrowers report that lenders made withdrawals that overdrew their checking accounts, twice the rate of storefront borrowers.
  - 39 percent report that their personal or financial information was sold to a third party without their knowledge.
  - 32 percent report experiencing an unauthorized withdrawal in connection with an online payday loan.
  - 22 percent report closing a bank account or having one closed by their bank in connection with an online payday loan.

4. **Nine in 10 payday loan complaints to the Better Business Bureau are made against online lenders, although online loans account for only about one-third of the market.** Most complaints deal with billing or collections issues, which include unauthorized bank debits, failure to explain or substantiate charges, failure to correct billing errors, and improper collection practices. Other reported problems include fraud, harassment, and dissemination of personal information.
5. **Online payday loans are usually more expensive than store loans.** Lump-sum loans online typically cost \$25 per \$100 borrowed per pay period—an approximately 650 percent annual percentage rate. Online installment loans, which are paid back over time in smaller increments, range in price from around 300 percent APR—a rate similar to those charged for store-issued payday installment loans—to more than 700 percent APR from lenders who are not licensed in all of the states where they lend. The main driver of these high costs is the frequency with which loans are not repaid: Defaults are more common in online lending than in storefront lending.

Some states have pursued action against online lenders for making loans to residents without obtaining state licenses or for other conduct that violates state laws. But state-level enforcement is often difficult, because the lenders may be incorporated in other states or offshore, or they may claim immunity based on an affiliation with Native American tribes. Intervention by federal regulators, including the Consumer Financial Protection Bureau and the Federal Trade Commission, has helped address some of the most serious concerns.<sup>3</sup> This intervention has not been sufficient to solve the problems that online borrowers experience. Only through strong, clear federal guidelines for the small-dollar lending market as a whole—ensuring that all loans are based on borrowers’ ability to repay and safeguarding their checking accounts—can these illegal practices be eliminated.

This report documents Pew’s findings regarding widespread fraud and abuse in the online lending market and examines strategies that state and federal regulators have used to address harmful and illegal practices. It also provides an overview of additional regulation, particularly at the federal level, that would protect consumers while ensuring ready and safe access to credit.

## How online lending works

Online payday lenders operate under several business models. Some companies began as stores and expanded into the online market; others are online only. Like some storefront lenders, online lenders often use brand names that differ from their parent companies. These brands, known as DBAs (doing business as), enable companies to establish multiple websites, potentially increasing their ranking on a search-results page.

Storefront loans still account for the majority of the payday lending marketplace, but online lending has grown substantially since 2006. According to industry analysts, approximately one-third of payday loans originate on the Internet, and online lenders' revenue tripled from 2006 to 2013, from \$1.4 billion to \$4.1 billion.<sup>4</sup>

Online lending shares many characteristics with storefront lending, including exceptionally high prices and repayment plans that exceed many borrowers' ability to repay. Yet Internet-based lending differs from storefront lending in several key ways. (Online borrowers also differ somewhat from those who use storefront loans. For a comparison of borrower demographics, see Appendix A.)

## Electronic access to checking accounts

Unlike storefront loans, which are secured by postdated checks or authorization to debit the borrowers' bank accounts, online loans primarily use electronic access to borrowers' bank accounts. Lenders deposit the loan proceeds directly into and take repayment directly from the accounts in most cases.<sup>5</sup> Online lenders use the Automated Clearing House (ACH) electronic payments system operated by banks to access borrowers' accounts, meaning that online lenders depend on banks to facilitate their loans in a way that storefront lenders do not.<sup>6</sup>

## Pricing

Fees for online payday loans are generally higher than those for storefront loans, with a typical rate of \$25 per \$100 borrowed per pay period for lump-sum loans.<sup>7</sup> For an average payday loan of \$375, borrowers pay a \$95 fee online compared with \$55 through stores.<sup>8</sup> In some states, lenders have both storefront and online operations, each offering loans of different amounts or with different fees or durations.<sup>9</sup> Many online lenders charge the same price in every state.<sup>10</sup> However, larger, state-licensed lenders often vary their charges depending on what is allowed under the law in each borrower's state.<sup>11</sup> (See Table 1.)

Table 1

## Online Payday Loans Generally Cost More Than Comparable Storefront Loans

### Loan prices by lender type

Loan type and location	Annual percentage rate (APR)
Storefront lump-sum national average	391
Online lump-sum national average	652

Note: APRs are based on analyst reports.

Sources: Consumer Federation of America, Stephens Inc.

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## Repayment practices and repeat usage

Like storefront operations, online lenders offering lump-sum payday loans rely on repeat borrowing, especially because of the high cost of buying information from companies that collect and resell applicants' personal and financial data.<sup>12</sup> Those companies are known as lead generators. Repeat customers are also desirable because they default on loans at lower rates than new customers do.<sup>13</sup> Industry analysts estimate that, even when charging a \$25 fee for each \$100 borrowed per pay period, an online lender would need the customer to borrow at least three times in order to earn a profit.<sup>14</sup>

Most storefront lenders make what are known as lump-sum or balloon-payment loans, which are due in full on the borrower's next payday. Until recently, this type of loan was typical among online lenders as well, but many have shifted to installment structures, which are repayable over time. Some online lenders make both types of loans. One of them, LendUp, offers new borrowers only balloon-payment loans, but after a customer repays a number of them, the company will offer a lower-interest loan with a longer repayment period.<sup>15</sup>

Some online lenders use a hybrid repayment structure in which only the fee is automatically deducted for the first several pay periods. These fee-only payments do not reduce the amount owed. After several of these deductions, the lender amortizes the balance, taking the fee plus part of the principal until the loan is repaid in full. One lender's website describes the practice as follows: "The minimum required payment will be deducted from your bank account automatically on payday. ... Online customers are automatically refinanced for the first four pay periods."<sup>16</sup>

## High loss rates

Online lenders do not incur the overhead required to maintain stores, which is the main driver of costs for storefront lenders.<sup>17</sup> Instead, online lenders' largest single cost category is losses from unpaid loans.

Cash America, a large lender with both brick-and-mortar and online lending divisions, provides an example. It filed a proposal in 2011 to spin off its online lending operation, called Enova, in a \$500 million initial public offering.<sup>18</sup> Enova's filing offers a detailed look inside the finances of an Internet lender.<sup>19</sup> In 2010, Enova received \$378.3 million in fee revenue from loans it made directly to borrowers and those for which it acted as a third-party guarantor. Of that, 42 percent was spent covering overhead expenses including advertising, administration, operation, and technology.<sup>20</sup> By comparison, the largest storefront lender spent 66 percent of revenue on overhead.<sup>21</sup>

Approximately 44 percent of Enova's revenue covered charge-offs—i.e., losses on loans that were not repaid.<sup>22</sup> This figure dwarfs the 17 percent of revenue used for charge-offs by the largest storefront lender and the 23 percent used by the largest consumer finance company.<sup>23</sup> (See Figure 1.) The higher losses illustrate the difficulty that online lenders face in verifying borrowers' identities, incomes, and willingness to repay. Losses are a leading reason for online lenders' failure to gain a cost advantage over stores despite their lower overhead—and for their higher prices.

Because of concerns about losses, online lenders are more selective about which applicants they approve. Some reject 80 to 85 percent of applicants, compared with roughly 20 percent among storefront lenders.<sup>24</sup> These rejections may also explain why online borrowers have somewhat higher incomes than storefront borrowers: Pew's survey data indicate that average household income for an online borrower is \$30,000 to \$40,000. One-third earn over \$50,000, more than twice the share of storefront borrowers who earn that much. (See Appendix A.) These findings are consistent with previous research on online borrowers.<sup>25</sup>

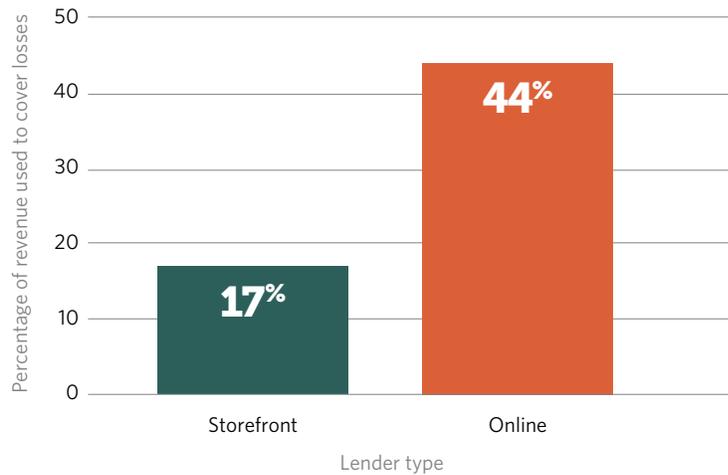
Many online lenders use sophisticated technology and advanced algorithms to predict which applicants are most likely to repay loans.<sup>26</sup> But even these lenders continue to charge interest rates usually in excess of 300 percent

APR,<sup>27</sup> suggesting that they still experience high rates of charge-offs.<sup>28</sup> One installment lender declined 72 percent of applicants, but defaults still reached 45 percent.<sup>29</sup>

Figure 1

## Loan Losses Are Higher Online Than at Stores

Share of revenue diverted to charge-offs, by lender type



Note: Analysts often use Advance America, the largest storefront payday lender, as a proxy for the industry. Filings by other storefront operators indicate similar loss rates. Similarly, Enova is the largest online lender.

Sources: Advance America's 10-K filing (2011), Enova's S-1 filing (2011)

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## Marketing and customer acquisition

Because online lenders do not have retail locations, they rely heavily on marketing and advertising to attract customers. Some lenders contact potential customers directly or advertise on television and radio to entice them to apply, but most rely at least in part on lead generators—companies that collect information from potential borrowers searching for loans and then sell it to lenders. Marketing and customer acquisition also represent a large cost category for online lenders.

### Lead generation

Lead generators use Internet, television, and radio advertising to attract potential borrowers. Their websites collect applicants' Social Security and bank account numbers and other personal information, which they then sell to lenders. These companies match borrowers with lenders, but their policies usually include language stating that they do not accept responsibility for loan charges or terms offered by lenders.<sup>30</sup> Industry analysts estimate that a majority of online applicants enter their information on a lead generation site rather than a direct lender's site, and the top online ads to appear after a search for "payday loan" and related terms generally are those of lead generators.<sup>31</sup>

Lenders pay high fees to acquire borrower information. A first-look lead—the opportunity to be the first lender to contact a potential borrower—cost as much as \$125 in 2011, but that price has since declined.<sup>32</sup> Lead generators typically then resell the same applicant's information to other companies after a brief initial exclusivity period for the first-look buyer.<sup>33</sup> Costs for second or third looks at a customer's information are significantly lower.<sup>34</sup>

Lists of people who have applied for payday loans through lead generators in the past are also sold by brokers.<sup>35</sup> Some online lenders act as both direct providers of loans and lead generators. If a company does not wish to make a loan, it may sell an applicant's information to other companies.<sup>36</sup>

## Advertising

Pew's earlier research demonstrated that a person experiencing a cash shortfall is not necessarily shopping for the best credit option but is trying to stay solvent at a difficult time using a variety of budgeting, earning, and borrowing strategies.<sup>37</sup> For example, when a small number of banks offered payday loans (known as "deposit advance" loans), 15 percent of eligible customers borrowed. However, nationwide, only 4 percent of people borrow at payday loan stores, and when storefront loans are not available, few people (about 2 percent) borrow online instead.<sup>38</sup> (See "Payday Lending Regulation Does Not Lead to Increased Online Borrowing," Page 20.) These data suggest that convenience, a sense of trust, and highly visible advertising help increase usage.

## Television and radio

Online lenders and lead generators spend hundreds of millions of dollars annually to attract customers. Data from Nielsen Co. indicate that the top five payday-loan-related advertisers spent about \$277 million on television and radio from June 2012 to May 2013. The lead generator MoneyMutual (owned by Western Marketing Studios LLC) is by far the largest advertiser, spending about \$211 million during that period.<sup>39</sup>

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**The top five online payday loan advertisers spent \$277 million on television and radio from June 2012 to May 2013.**

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### TV Advertising Spurs Demand for Online Payday Loans\*

"The fact that they did do television advertising is like, maybe you're somewhat reputable because I'm assuming you're in this country, and you're putting out the money to advertise nationally. ... So at least it made it seem a little bit more trustworthy." —*St. Louis online borrower*

"I think that was the only payday company that I saw that actually a celebrity was endorsing it. ... I was like, 'Okay, well, Montel does it.'" —*New York online borrower*

"I saw this thing on TV, Montel Williams. ... If he's okay with it, it's got to be okay." —*New York online borrower*

"That I could trust him, yeah. And I was surprised that it went to not just a lender, it went to a million places, all over the place. I was like, 'Does Montel know this?'" —*New York online borrower*

"I remember the commercials. ... I didn't even know those online things existed until I was in this bind. That was the first time I saw them. ... It wasn't in my universe. I hadn't even thought about it." —*New York online borrower*

\* All quotes from borrowers in this report come from focus groups conducted by The Pew Charitable Trusts. MoneyMutual, for which Montel Williams is a spokesman, is by far the largest online payday loan advertiser and has spent more than \$200 million a year on television and radio. Williams' name was mentioned multiple times by participants in the three groups composed exclusively of online borrowers.

## Internet search ads

Online lenders also spend substantial advertising dollars on the keyword-search-linked ads that Internet users typically see on search results pages. Keywords related to payday loans typically cost \$4.91 to \$12.77 per click (Table 2), which is high, given the small size of the loans and that the leads are only prospective. Nevertheless, these ads form a significant portion of online lending advertising. Search activity for payday loans is highest in the months before and after Christmas, and a lead generator can spend upward of \$32,000 per day on clicks from potential applicants.<sup>40</sup>

Table 2

## Payday Loan Search Terms in the Internet Market Are Costly

Advertisers typically pay \$5 to \$13 per click on an online loan ad

Keyword term	Minimum	Maximum
"Payday Loan"	\$4.91	\$8.82
"Payday advance"	\$5.39	\$7.59
"Payday loans"	\$7.01	\$10.33
"Payday Loans"	\$7.13	\$9.84
"Payday loans online"	\$7.33	\$9.00
"Online payday loans"	\$8.13	\$12.77

"Payday loans" can generate more than \$2 million in click fees per month.

Note: Minimum and maximum costs are point-in-time figures for Feb. 18, 2014. Costs may vary over time.

Sources: SpyFu (2014), SEMRush (2014), KeywordSpy (2014), The Pew Charitable Trusts (2014)

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## Online lending practices harm borrowers

States, federal regulators, and media outlets have reported numerous instances of abuse in the online payday lending market over the past several years. These problems include threats and fraud by lenders, debt collectors, and those posing as lenders and debt collectors. Pew's research corroborates these reports and shows a broad pattern of abusive practices. The analysis found that online borrowers report problems such as threats, fraud, and dissemination of their personal information at much higher rates than do storefront payday loan borrowers. Not all lenders engage in these types of actions. Some online lenders, such as Elevate, Enova, LendUp, and Speedy Cash, are the subject of few complaints and in some cases have criticized these practices and called for raising industry standards.<sup>41</sup>

### Obstacles to repayment

In Pew's survey, 31 percent of online borrowers report that lenders caused loans to extend automatically by withdrawing only the finance fee rather than a payment that would reduce the principal. More than half of those borrowers said that to pay more, they had to request a change by phone. If they wanted the full balance debited on the due date, they had to call their lenders two or more days in advance. (See Figure 2.)

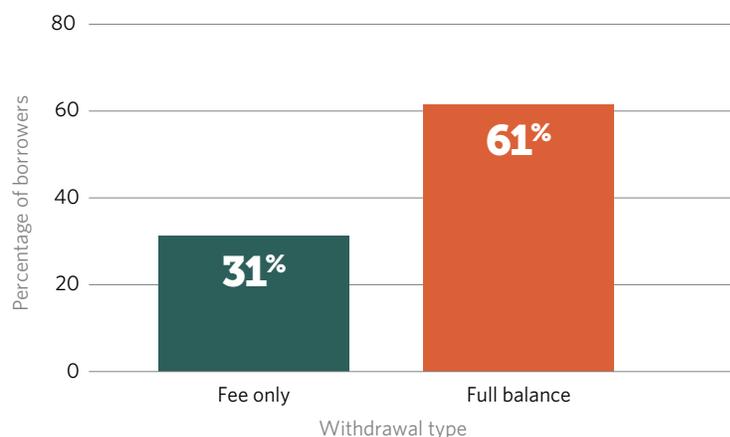
Some websites cite a similar payment schedule on their Frequently Asked Questions or Terms and Conditions page:

- "Online customers are automatically renewed every pay period. Just let us know when you are ready to pay in full, and we will deduct your loan plus fees from your bank account."<sup>42</sup>
- "Customers are automatically renewed, so you do not need to request it. If your next payday comes around and you are not as caught up as you had planned, don't worry; we have it covered. We will automatically extend your due date, and only deduct the renewal fee from your checking account. Additional fees will apply, but you will be able to repay your cash advance from future paychecks."<sup>43</sup>

Online installment payday loans, which amortize to a zero balance, are sometimes set up to function similarly: The first several payments are interest only and do not reduce the principal owed. For example, on a \$500 loan from online lender Castle Payday, operated by Red Rock Tribal Lending, the first five payments totaling \$875 do not pay down any principal, and the borrower still owes the full \$500 balance.<sup>44</sup>

Figure 2

### 3 in 10 Online Borrowers Had Loans Set Up to Withdraw Only the Fee Many initial payments did not include any principal



Notes: Online borrowers were asked, "Have you ever taken out an online payday loan that was set up to ONLY withdraw the fee, or have they always been set up to withdraw the full amount?" The 77 respondents who answered "Set up to only withdraw the fee" were then asked: "And could you request online that the full amount be withdrawn, or did you need to make the request by phone?" Of this small subgroup, 39 percent could request online to have more than the interest-only fee withdrawn, while 53 percent reported that this could be done only by phone.

Source: Analysis of The Pew Charitable Trusts' survey data

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Nearly one-third of online borrowers report that lenders caused loans to extend automatically by withdrawing only the finance fee rather than a payment that would reduce the principal.

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### Some Loans Have Payments That Do Not Reduce Principal

"The first three payments, they'll just take the financing, the servicing, and they don't even start paying down on it."—*New York online borrower*

"When I looked at it, and they just took out the charge, and they didn't take off the principal, and I called them up and go, 'Why did you just take out \$120 on \$500? ... Why didn't you just take out everything?' They said, 'Well, you didn't call me.' I said, 'I called you yesterday.' "

—*New York online borrower*

"[Y]ou're due on Friday. If you don't call them by Wednesday and say, 'I want to pay it off,' they'll just take the interest, and they'll keep just taking the interest until you call them and say, 'Pay it off.' Otherwise, that thing will go on forever, because every two weeks they'll just snatch whatever interest it is and never pay it off at all."—*St. Louis online borrower*

"I get paid on Thursday, so if you don't let them know by Tuesday, then Thursday they were only going to take out the interest."—*Manchester, New Hampshire, online borrower*

## Threats

Online borrowers report receiving threats that they will be arrested or that their family, friends, or employers will be contacted at higher rates than do storefront borrowers. Thirty percent of online borrowers have experienced one or more of these threats. (See Figure 3.)

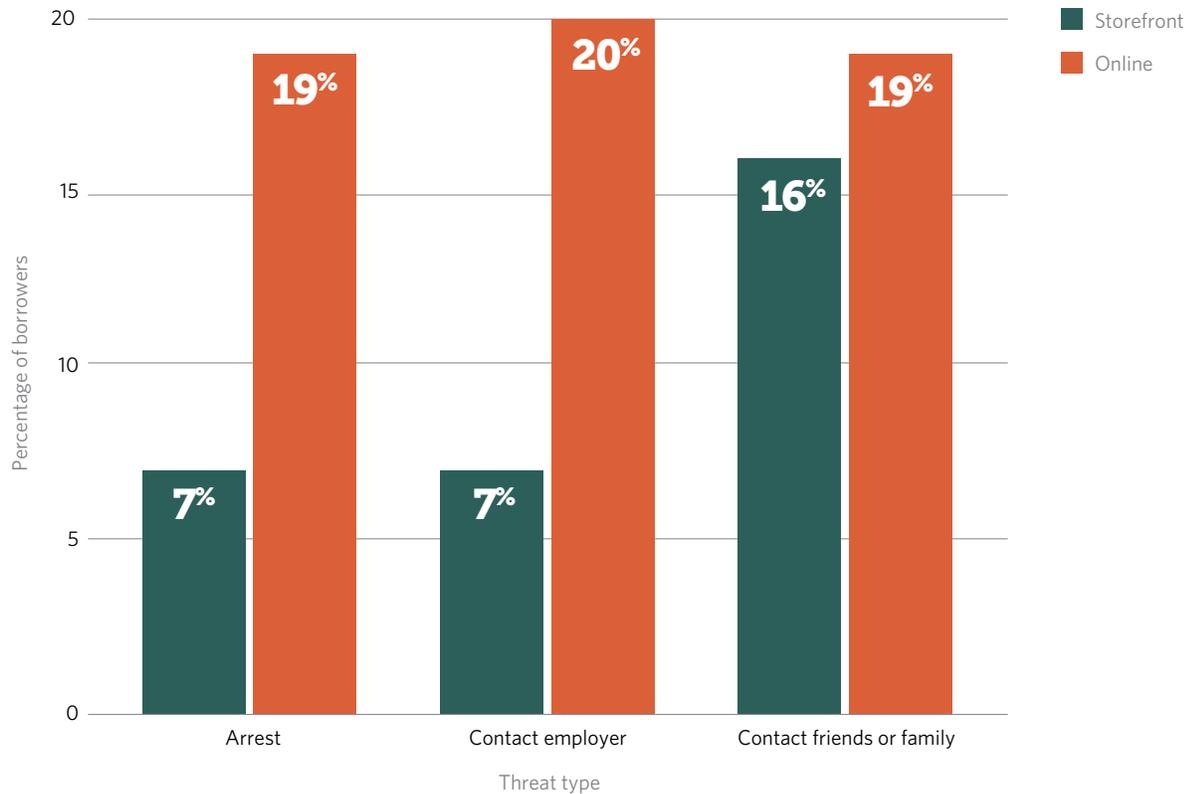
In many cases, borrowers had difficulty determining whether the contacts and threats were from lenders, debt collectors, or fraudulent entities that had purchased their information from lead generators or list brokers. The unique nature of online lending requires borrowers to submit sensitive information electronically, a process that can result in mishandling or abuse.<sup>45</sup>

Borrowers are often required to submit personal references when applying for payday loans (online or at stores), as well as contact information for their places of employment. In focus groups, some borrowers reported that if they failed to repay loans on time, lenders would call their references or even their employers in an effort to get the borrowers to repay. Investigations by federal regulators indicate that some payday lenders have threatened and harassed borrowers who did not repay their loans on time by visiting borrowers' workplaces and making excessive phone calls.<sup>46</sup> Others reported receiving threats even when they were current on or had already repaid a loan. In those instances, federal data indicate that it is likely that many of the threats came from scam artists or fraudulent third-party debt collectors.<sup>47</sup>

Figure 3

## Threats Are More Common in Online Than Storefront Lending

30% of Internet borrowers received at least one threat



Note: Storefront borrowers were asked, “I’m going to read you several things that some people have told us happened to them. For each one I read, please tell me whether it has happened to you. How about: Been threatened with arrest in connection with a payday loan/Had someone threaten to contact your friends or family about your payday loan/Had someone threaten to contact your employer about your payday loan. Has this happened to you or not?”

Online borrowers were asked, “Now I’m going to read you another list of things that some people who took out online payday loans say happened to them. For each one I read, please tell me whether it has happened to you in connection with an online payday loan. How about: Been threatened with arrest in connection with an online payday loan/Had someone threaten to contact your friends or family about your online payday loan/Had someone threaten to contact your employer about your online payday loan. Has this happened to you or not (in connection with an online payday loan)?”

“Had someone threaten to contact your employer” was asked only of the 267 storefront borrowers and 165 online borrowers who answered “yes” to “Are you currently employed?”

Source: Analysis of The Pew Charitable Trusts’ survey data

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In focus groups, borrowers reported receiving phone calls in which the callers threatened to have them arrested, take them to court, contact their employers, or come to their workplaces. Such practices can be illegal under the Fair Debt Collection Practices Act.<sup>48</sup> Some borrowers said callers stated that they were law enforcement or were calling on behalf of a government agency or law office. Although the law generally protects people from imprisonment for failure to pay a debt, some borrowers discussed their fear of being arrested and sent to jail for failure to comply with the callers’ demands.<sup>49</sup>

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## 30% of borrowers report being threatened in connection with an online payday loan.

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### Harassment and Threats

"I had the law office call me. ... He tells me I have to get my attorney, and he says we will come to your job, and we'll arrest you."—*New York online borrower*

"Harassing me ... probably like two years. He said he was going to call Harris County. I said, 'You can't do that.' He was like, 'Yes, I can.'"—*Houston online borrower*

"When he started calling my work, I thought I was going to lose my job."—*Manchester, New Hampshire, online borrower*

"'We're going to serve you at work day after tomorrow if this is not paid in full today.'... I said, 'Don't serve me at work,' because I'm thinking I don't want to be humiliated."—*Manchester, New Hampshire, online borrower*

"These people had me so fed up that I actually had an anxiety attack, and I went to the emergency room, because I couldn't take it no more. Saying they were going to take you to court ... calling me at work saying that I took a \$5,000 loan, which I would never take a \$5,000 loan."—*New York online borrower*

## Fraud and dissemination of personal information

Lead generators do not disclose the lenders in their networks, so borrowers learn the names of their prospective lenders only after they have entered their personal and financial information or, in some cases, only after they have received funds. After a lender buys a lead, the borrower's information remains available for sale.<sup>50</sup> This practice of reselling leads creates opportunities for fake debt collectors and others to buy the information and attempt to collect money using aggressive tactics. In such instances, the borrower's bank account is also at risk from those who would use the information to initiate electronic withdrawals. Critics say the sale of sensitive information also puts borrowers at risk of fraud or identity theft.<sup>51</sup>

Several states have issued consumer alerts associated with lead generators and warned residents not to submit personal information to companies that are not licensed by the state and to use caution when entering such information online.<sup>52</sup> Richard Cordray, director of the Consumer Financial Protection Bureau, observed, "The highest bidder may be a legitimate lender, but it could also be a fraudster that has enough of the consumer's sensitive financial information to make unauthorized withdrawals from their bank account."<sup>53</sup>

Among survey respondents, one in three online borrowers said they were contacted about a debt they did not owe, and 39 percent believed their personal or financial information was sold to a third party without their knowledge. (See Figure 4.)

Figure 4

## Fraud and Dissemination of Personal Information Are Common

More than one-third of online borrowers report fraud or abuse



Note: In the survey, online borrowers were asked, “Now I’m going to read you another list of things that some people who took out online payday loans say happened to them. For each one I read, please tell me whether it has happened to you in connection with an online payday loan. How about: Had your personal or financial information sold to a third party without your knowledge in connection with an online payday loan/Been contacted about a debt you did not actually owe in connection with an online payday loan. Has this happened to you or not?”

Source: Analysis of The Pew Charitable Trusts’ survey data

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### Dissemination of Personal Information

“They had all my information ... my routing numbers, my banking account, my email address, my job.”—*New York online borrower*

“I had to change everything. I mean, he knew everything about me.”—*Manchester, New Hampshire, online borrower*

“I’m talking to the bank and he’s like, ‘Well, how did your information get out there? Were you really that stupid?’ And I’m thinking, ‘No, I don’t know how it got out there,’ you know. Because I didn’t want to say to anybody, yeah, I’m that stupid, I needed money that bad.”—*Manchester, New Hampshire, online borrower*

“He knows where I work. He says, ‘I know the last four of your social.’ ”—*Manchester, New Hampshire online borrower*

“I want to know how they got all my information. I mean, these loan companies are supposed to have some type of security.”—*New York online borrower*

### Confusion about lead generators

The high price that lenders pay to acquire leads and the lack of restrictions on what companies can do with them produce an incentive for lead generators to sell applicants’ private information many times. As a result, multiple lenders as well as other companies or individuals can contact a single prospective borrower.

Such practices can make it difficult for borrowers to know who is providing their loans and how to contact their lenders, particularly when the websites where they initially entered their personal information do not belong to

their lenders. Lead generator sites typically disclose that they are not lenders, but many do so only in small type at the bottom of the Web pages.<sup>54</sup>

In focus groups, some borrowers said they were unaware that the websites were lead generator sites designed to collect and resell private information. Many borrowers reported being unsure about whom to contact if they experienced issues with their loans. They knew which websites they used to enter their personal information but not always the names or contact information of their lenders. Others were surprised to find businesses whose names they did not recognize debiting their accounts or contacting them about late payments.

Borrowers also discussed being called and emailed by numerous lenders after completing online applications or receiving additional solicitations after taking out their initial loans, sometimes causing confusion about the status of their original loans or tempting them to borrow in excess.

### Confusion About Numerous Loan Offers Stemming From Lead Generation

"I'm getting texts, and I'm getting phone calls, and I'm getting emails, and I'm getting all of this stuff."—*New York online borrower*

"Next thing I know, I got phone calls at my job from two other places. 'Oh, we're depositing money in your bank account the next day.'"—*New York online borrower*

"It's very confusing ... because you don't know where they're coming from. You know, I get a call and it's like, yeah, I didn't even talk, like I never even went to your website, how do you have my [information]?"—*Manchester, New Hampshire, online borrower*

"Don't give me something I didn't ask for. I mean ... I'm going to take it, but don't be calling me and saying, 'Oh, you just got approved for another \$300' that I don't really need. Because it's like setting me up to being more in debt than I already am."—*New York online borrower*

## Bank account problems

Online lending also places consumer bank accounts at risk. Borrowers report overdrafts, unauthorized transactions, and the loss of accounts as a result of online lending practices.

### Overdrafts

Nearly half (46 percent) of online borrowers report that their bank accounts were overdrawn by payday lenders' withdrawals, twice the rate among storefront borrowers.<sup>55</sup> (See Figure 5.)

Figure 5

## Nearly Half of Online Borrowers Report Withdrawals Causing Overdrafts

Online borrowers are twice as likely as storefront borrowers to report overdrafts



### Online Loan Payments Lead to Overdrafts and Fees

"I had to pay insufficient funds on top of that, so if a payment got returned to them, I had to pay for insufficient funds. Then they charged me \$30 for a returned check, and that wasn't in the bank. I had to worry about insufficient funds for that. So they kept on hitting my account like at least 10 times in one week."—*New York online borrower*

"Direct deposit comes in. Might, if I'm lucky, zero out the checking account, but then they come back, you know, and they tap their next payment. And they all get returned. ... I had one account that closed."—*Manchester, New Hampshire, online borrower*

"I got in a situation where people were taking money out of my account without me knowing ... and they were taking money out, just kept taking extra money out. ... I didn't know nothing about it, but my bank stopped them. ... They were like, 'You're having all this money coming out, and you don't have this money in your account, so what's going on here?' ... I had to switch banks."—*New York online borrower*

### Unauthorized transactions

Unauthorized withdrawals are another common problem associated with online lending. One in three borrowers reported an unauthorized withdrawal from a checking account in connection with an online payday loan.<sup>56</sup> (See Figure 6.) This figure is distinct from overdrafts caused by lenders' withdrawals. Online borrowers are at especially high risk of unauthorized withdrawals because their bank accounts are exposed to lenders and others who buy their information.<sup>57</sup>

Similarly, some online borrowers report that loan funds were deposited to their accounts unexpectedly or from unknown companies. One-fifth of borrowers received loans or other products (such as memberships or prepaid cards) they did not authorize.<sup>58</sup> Others described receiving loans after submitting applications but before consenting to the terms. The FTC and state regulators have taken action against some companies that withdrew money from borrowers' accounts without justification or as payment for unwanted products.<sup>59</sup>

Figure 6

## Online Borrowers Report Unauthorized Withdrawals and Loan Originations

1 in 3 had money withdrawn without giving permission



Note: Online borrowers were asked: "Now I'm going to read you another list of things that some people who took out online payday loans say happened to them. For each one I read, please tell me whether it has happened to you in connection with an online payday loan. How about: Had money withdrawn from your bank account without you authorizing it. Has this happened to you or not? How about: Received a loan or product that you did not apply for or authorize? Has this happened to you or not?" These questions were not asked of storefront borrowers, but there are few allegations of these types against storefront lenders.

Source: Analysis of The Pew Charitable Trusts' survey data

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### Unwanted Loans, Undisclosed Fees

"Somebody actually supposedly enrolled me in like a payday loan insurance plan and charged me like \$80 one day, which at the time put my account to the negative. So I went to the bank and they had to reimburse everything."—*Manchester, New Hampshire, online borrower*

"I applied for one, and it wasn't guaranteed I was going to get it, and they charged my account \$20, and I didn't get the loan."—*New York online borrower*

"They're calling me to this day. I ended up closing my [bank] account because there's so many hidden fees."—*Houston online borrower*

"[N]ot every payday loan actually provides you with the terms enclosed with the application. The moment you submit the applications, you're already getting phone calls. So whoever intercepts you and gives you the loan, they email you the terms. And by that time, you already have the money in the bank, and you can't say, 'I don't want it,' because they're not going to take the money back."—*New York online borrower*

"We took some money out for some kind of membership. ... Like a \$29.95 membership fee."—*New York online borrower*

## Closed bank accounts

In Pew's survey, one-fifth of online borrowers report that banks closed their accounts or that they did so themselves because of online payday loans. One-sixth specifically reported closing accounts to prevent online lenders from withdrawing money. (See Figure 7.) By comparison, 1 in 10 storefront borrowers closed or lost a bank account for these reasons. Although some account closures occur because borrowers are unable to keep up with scheduled payments or choose not to repay loans, they also result from unauthorized withdrawals. A consumer alert from California's Department of Corporations warns borrowers, "Some lenders may deposit funds before the consumer agrees to the loan and then begin drawing funds from the consumer's account for repayment. This has led many consumers to close bank accounts to avoid more unauthorized withdrawals."<sup>60</sup>

Figure 7

## 22% of Online Borrowers Have Lost Bank Accounts Because of Online Payday Loans



Note: "I'm going to read you several things that some people have told us happened to them. For each one I read, please tell me whether it has happened to you. How about: Had a bank account closed by your bank because of an online payday loan/Closed a bank account yourself to prevent an online payday lender from taking money out of it. Has this happened to you or not?"

Source: Analysis of The Pew Charitable Trusts' survey data

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But closing a bank account is not necessarily sufficient to prevent online lenders or others who have purchased borrower information from making withdrawals. Some lenders claim the right to access any borrower account they can identify, not just the one associated with the loan, and list some version of this practice in their terms and conditions. For example, one lender states: "If we extend credit to a consumer, we will consider the bank account information provided by the consumer as eligible for us to process payments against. In addition, as part of our information collection process, we may detect additional bank accounts under the ownership of the consumer. We will consider these additional accounts to be part of the application process and eligible for payment retrieval."<sup>61</sup>

Even if lenders do not use these techniques or if the borrower's bank does not allow them, closing an account still may not stop unwanted withdrawals or fees. In some instances, banks have reopened accounts closed by consumers and processed lender-initiated transactions; these are known as "zombie" accounts.<sup>62</sup> Borrowers who bank at institutions that allow these transactions may experience withdrawals and incur substantial insufficient-funds fees or other charges. Although some banks have announced plans to correct this problem voluntarily, consumers remain vulnerable in the absence of stronger regulatory protections against harmful repayment or collections practices.

## Lost Bank Accounts

The online payday lender “is trying to charge me \$790 when he was trying to withdraw money from my account, and that time I wasn’t working, and I had to close my checking account. They were still charging my checking account.”—*New York online borrower*

“I was told by my bank there was really no way that I can stop them from taking it out. ... They closed that account, and they opened up another one.”—*St. Louis online borrower*

“I actually talked to a debt-consolidating place, which I hadn’t done yet, but he said, ‘First off, you have to get a hold of your own, gain control of your own situation.’ He says, ‘Change your checking account number,’ and that’s what I did.”—*Manchester, New Hampshire, online borrower*

“I closed off my account because they were taking out more than they should have taken out, without my permission.”—*Manchester, New Hampshire, online borrower*

## Customer complaints about payday lending

Pew obtained payday loan complaint data from the Better Business Bureau (BBB).<sup>64</sup> The BBB does not specify whether a loan was obtained at a retail store or online, but Pew was able to verify the channel for 99 percent of 4,018 complaints made against payday lenders in 2011.<sup>65</sup>

Although storefront payday lenders represent about two-thirds of the overall market, they accounted for just 1 in 10 complaints.<sup>66</sup> The vast majority—89 percent—of complaints were against online lenders, and most concerned a small group of companies operating through multiple websites.<sup>67</sup>

Ten parent companies received 61 percent of the complaints, and one company, AMG Services (also known as CLK Management), accounted for 33 percent. (See Table 3.)

Table 3

### 89% of Payday Loan Consumer Complaints Are About Online Lenders

#### 10 lenders receiving the most complaints in 2011

Business	Percentage of total complaints
AMG Services	33
Cash America International Inc.	5
Global Payday Loan LLC	4
CMG Group LLC	3
SSM Group LLC or Summit Group LLC	3
EZ Loan Protection	3
Funds Direct	3
ACE Cash Express	2
SCS Processing LLC	2
Lenders International	1
<b>TOTAL</b>	<b>61*</b>

\* Complaints add to 61 percent instead of the expected 59 percent because of rounding.

Sources: Better Business Bureau (2012), The Pew Charitable Trusts (2014)

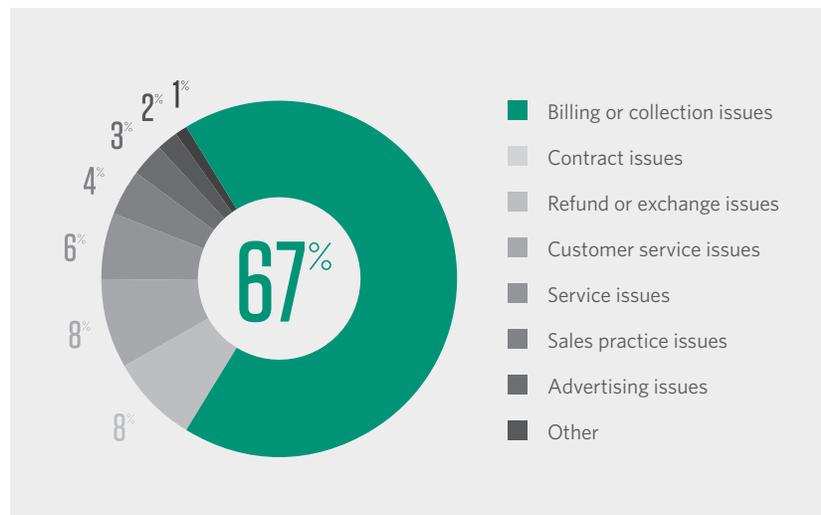
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Borrowers cited “billing or collection issues” in 2 of 3 complaints against payday lenders. (See Figure 8.) Under the BBB’s reporting framework, this category includes unauthorized credit card charges or bank debits, failure to explain or substantiate charges, failure to correct billing errors, and improper collection practices.<sup>68</sup> These complaint data mirror the concerns that focus group and survey participants expressed about fraudulent or unexpected charges and aggressive collections behavior in the online payday loan market.

Figure 8

## Billing and Collection Problems Drive Consumer Complaints About Online Payday Loans

Borrower complaints by type, 2011-13



Note: "Billing or collection issues" include failure to correct billing errors, unauthorized credit card charges or bank debits, failure to provide itemized billing as requested, failure to substantiate charges, improper collection practices, or other credit, billing, or collection issues. These results include all payday loan complaints that have a type noted. Approximately 29 percent of complaints did not have a designated type. The "other" category includes guarantee or warranty, repair, delivery, and product issues.

Sources: Better Business Bureau (2011-13)

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Proponents of storefront payday loans have argued that additional regulation would drive borrowers online. However, data indicate that rates of Internet borrowing are similar across states that have storefront lenders and those that do not. (See "Payday Lending Regulation Does Not Lead to Increased Online Borrowing," Page 20.) Consistent with this finding, the BBB data indicate that rates of payday loan complaints are also about the same in each state grouping and are similar to each state grouping's population as a percentage of the nation as a whole.<sup>69</sup> (See Table 4.)

Table 4

## States That Limit Payday Stores Do Not Have Substantially More Complaints

Consumer complaints by state regulation type, 2011-13

		Restrictive	Hybrid	Permissive
Share of U.S. population residing in each state group		29%	17%	54%
Share of payday loan complaints	2011	29%	14%	57%
	2012	30%	17%	53%
	2013	31%	16%	53%

Note: Restrictive states are those that have no payday loan storefronts. Permissive states allow single-repayment loans with APRs of 391 percent or higher. Hybrid states have payday loan storefronts but maintain more exacting requirements, such as lower limits on fees or loan usage, or longer repayment periods.

Sources: Better Business Bureau (2011-13) and U.S. Census Bureau's July 1, 2012 estimate (<http://www.census.gov/popest/data/state/totals/2012>). Analysis and categorization by The Pew Charitable Trusts.

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## Payday Lending Regulation Does Not Lead to Increased Online Borrowing

Research demonstrates that, despite concerns that restricting access to storefront payday loans might drive consumers to less-regulated markets such as the Internet, lower storefront usage is not associated with substantially higher online borrowing. The first report in this series, *Who Borrows, Where They Borrow, and Why*, demonstrated that overall payday loan usage rates are sharply lower in states without stores and that the rate of online borrowing in those states is similar to that in states that do not restrict in-store lending. (See Table 5.) Data also show that people use loans at much higher rates when they are very aware of the loans' availability and when the lenders are convenient or trusted sources. For example, payday loan adoption rates at banks far exceed those at stores or online. (See Figure 9.)

Table 5

### Method of Acquiring Payday Loans by State Law Type Percentage of adults reporting payday loan usage in the past 5 years

	Borrow from storefront only	Borrow from online or other	Number of interviews
National	4.01%	1.48%	33,576
Permissive states	5.22%	1.37%	17,881
Hybrid states	5.06%	1.28%	5,565
Restrictive states	1.29%	1.58%	10,130

Note: Online or other represents all borrowers who have indicated online usage (including those who have borrowed both online and from a storefront), plus usage from other lenders that may include banks, credit unions, or employers, among others. Results are reported to two decimal places, but this reporting is not intended to imply such a detailed level of precision. Rather, two decimal places are used in order to avoid inaccurate calculations between groupings that could be caused by rounding. Because of sampling error, it is possible that the true level of usage in any of these groupings is slightly higher or lower. Restrictive states are those that have no payday loan storefronts. Permissive states allow single-repayment loans with APRs of 391 percent or higher. Hybrid states have payday loan storefronts, but maintain more exacting requirements, such as lower limits on fees or loan usage, or longer repayment periods. Data represent percentage of adults in each category who report having used a payday loan in the past five years. Results are based on 33,576 interviews conducted from August 2011 through December 2011.

Source: The Pew Charitable Trusts (2012)

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Figure 9

## The More Mainstream the Lender, the More Likely People Are to Borrow

Percent of eligible customers using loans, by lender type



Note: At banks, eligible customers were those who had a checking account for at least several months, had direct deposit, had an account in good standing, and in some instances met an additional requirement.

Sources: Consumer Financial Protection Bureau (2013), The Pew Charitable Trusts (2012)

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## Compliance strategies and regulatory responses

Online lenders have pursued several strategies for complying—or not—with the laws of states where their customers reside. Citing concerns about potential consumer harm or illegal activity, various states and the federal government have increased their scrutiny of online lending in recent years. However, because of legal and practical challenges, regulators have sometimes struggled to adapt to the growth of online lending.

### Licensing and compliance with state law

Payday loans are primarily regulated at the state level, and generally all lenders must maintain licenses in states where they make loans.<sup>70</sup> Some online lenders have complied, but others have not, arguing that individual state licensing is not necessary. The four models employed by lenders are single-state license (20 percent of online lenders, per industry estimates), multistate license (30 percent), sovereign nation partnership (30 percent), and offshore incorporation (20 percent).<sup>71</sup>

#### The ‘rent-a-bank’ or ‘rent-a-charter’ model

One of the early models used by some lenders involved partnering with a national bank located in a state with permissive regulations, such as South Dakota, Utah, or Delaware.<sup>72</sup> The National Bank Act allows a nationally chartered bank to export the interest rate of its home state into other states, so lenders partnered with these banks in an attempt to “rent” the bank’s charter and circumvent state usury laws.<sup>73</sup> But strict guidelines issued by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corp. from 2000 to 2006—as well as several enforcement actions—rendered this model obsolete.<sup>74</sup>

#### Single-state license model

Online lenders using a single-state license model incorporate in a state with permissive lending laws and, as with the rent-a-bank model, attempt to circumvent rate caps in more restrictive states by effectively exporting the interest rate rules of their home states. Proponents of this model claim that “choice of law” principles (selecting one state’s law to follow) justify these practices for those doing business via the Internet.<sup>75</sup> Regulators in some states have sent cease-and-desist letters or sought enforcement actions against online lenders using this model, arguing that the loans are illegal because the lender lacks the proper license or its practices violate state law.<sup>76</sup> A recent court case in New York found that states have jurisdiction over online loans made to their citizens and that lenders do not have the right to collect interest charged in violation of state limits.<sup>77</sup> State attorneys general from Illinois and Arkansas, among others, have also filed lawsuits against online lenders charging them with violating state usury laws.

#### Licensing in multiple states

Lenders using the multistate licensing model obtain separate licenses in all of the states where they do business. Some of the largest storefront lenders employ this model and offer online loans in the same states where they operate stores.<sup>78</sup> Depending on state law, lenders may also function as brokers and partner with third parties to fund loans or sell leads to other lenders. In some cases, lenders operate under a statute other than the one intended for payday loans. For example, in Ohio, payday lenders are licensed as credit service organizations,<sup>79</sup> and in Texas, they are technically credit access businesses.<sup>80</sup> As noted earlier, companies using this model generally are not implicated in the types of illegal practices described in this report.

## Claiming Native American tribal immunity

The most recent model to emerge involves lenders claiming sovereign immunity from state or federal laws on the basis of affiliation with a Native American tribe.<sup>81</sup> However, it is often not clear whether the tribe is sufficiently involved in the ownership or operation of the lending business to justify such claims.<sup>82</sup> In many cases, a nontribal lender partners with and pays a small share of its proceeds—as little as 1 percent—to a tribe for the privilege of claiming immunity.<sup>83</sup> Online lenders have used these tactics to make loans that otherwise are not permitted under the state laws where borrowers reside.<sup>84</sup> Critics have dismissed this model as a “rent-a-tribe” arrangement driven by nontribal interests.<sup>85</sup>

## Offshore or overseas incorporation

Lenders that incorporate offshore are a persistent concern at the state and federal levels. Like lenders that claim tribal affiliation, overseas operators sometimes assert that they are exempt from state licensing and regulatory requirements.<sup>86</sup> Because such lenders maintain no official presence in a state, it is often difficult for borrowers and regulators to identify or contact the lender directly. In some instances, payday lenders have allegedly claimed to be located offshore but in fact had offices in the United States.<sup>87</sup>

## Regulatory action

In recent years, officials in several states have sought more control over online lending either by taking legal action to halt noncompliant lenders’ activities or by requiring lenders to register with state regulators. These efforts have triggered disputes about the nature and scope of states’ authority over online lending. For example:

### State action

Regulators in Arkansas, Colorado, Illinois, Maryland, Minnesota, New York, North Carolina, Vermont, Washington, and West Virginia have been at the forefront of efforts to stop online lenders from making loans that do not comply with state law:

- In New York, Benjamin Lawskey, superintendent of financial services, brought several enforcement actions against online payday lenders in the state. In August 2013, he issued cease-and-desist orders to 35 online lenders and sent letters to 117 banks and the National Automated Clearing House Association (NACHA, the private, nonprofit regulatory body that helps oversee the electronic payments system). In the letters, he asked them to help develop safeguards to prevent abuse of the electronic payments system and to discourage noncompliant loans.<sup>88</sup> In April 2014, Lawskey sent cease-and-desist letters to 20 additional companies, 12 of which were allegedly using debit cards to make loans to consumers that did not comply with state law.<sup>89</sup>
- Arkansas’s attorney general has sued numerous online payday lenders to prevent them from offering loans to or collecting payments from state residents where the loans violate the state’s usury interest rate cap.<sup>90</sup>
- Minnesota’s attorney general and commissioner of commerce have taken action against lenders who allegedly claimed tribal affiliation to evade state interest rate laws and licensure requirements.<sup>91</sup>
- Illinois’ attorney general sued lenders whose loans allegedly did not comply with the state’s interest rate limits and a lead generator that sold residents’ names to those companies.<sup>92</sup>
- Vermont’s attorney general issued letters to broadcasters and payment processors in April 2014, notifying them that showing advertisements or processing payments for prohibited loans is illegal in Vermont.<sup>93</sup>

Some lenders do not make loans in these or other states because of efforts by regulators or law enforcement officials.<sup>94</sup>

## Court decisions

In some cases, online lenders claimed that they did not have to follow the laws of all the states where they lend. These companies have challenged the authority of state officials to regulate their activities, raising legal questions that courts continue to address. For example, a 2008 federal appeals court decision held that an out-of-state lender was subject to Kansas law when making loans to that state's residents via the Internet.<sup>95</sup> Similarly, a federal court ruled that a tribally affiliated lender could not invoke sovereign immunity to make online loans to New York residents that did not comply with state law.<sup>96</sup> But a California court ruled that the state's financial regulator lacked jurisdiction over a group of lenders legitimately operating as arms of Native American tribes.<sup>97</sup>

## Federal action

"Rent-a-bank" partnerships were not widely used by online lenders because guidance from federal regulators on this model predated the rise of Internet payday lending.<sup>98</sup> In 2013, guidance from the Office of the Comptroller of the Currency and FDIC also emphasized that banks are responsible for third-party relationships and that payday-type loans from banks must be rigorously underwritten, further discouraging banks from acting as payday lenders.<sup>99</sup> Other lenders have attempted to use prepaid debit cards as a vehicle for partnering with banks to provide payday-like loans that may not comply with state laws, but banks have ceased involvement in these practices because of safety and soundness concerns from federal regulators.<sup>100</sup>

The Department of Justice has pursued action against banks that served as access points to the electronic bank payments system for online payday lenders engaging in allegedly fraudulent practices or making loans that violated state laws.<sup>101</sup> The department alleged that Four Oaks Bank played this role for a payment processor servicing more than 20 online payday lenders. A federal judge approved a settlement in April 2014 that required tight restrictions on Four Oaks' ability to do business with online lenders whose debits are returned as unauthorized more than 0.5 percent of the time.<sup>102</sup>

The FTC has taken a number of actions against payday lenders, focused mostly on the areas of debt collection, unauthorized withdrawals, wage garnishment, and undisclosed costs.<sup>103</sup> A U.S. district judge ruled in March 2014 that the FTC's jurisdiction also includes lenders claiming tribal affiliation.<sup>104</sup>

- In one case, the FTC took action to stop a company's debt collection practices in which employees allegedly falsely accused consumers of fraud, told consumers they worked with the government, and threatened lawsuits and arrest if debts—many of which were originally payday loans—were not repaid.<sup>105</sup>
- The FTC and the state of Nevada have alleged that certain online payday lenders used "unfair and deceptive collection tactics" of the sort described earlier in this report. (See Page 9.) The FTC contended that lenders "repeatedly called consumers at work using abusive and profane language" and "improperly disclosed consumers' purported debts to third parties."<sup>106</sup>
- In another case, callers allegedly "threatened that consumers could be arrested, prosecuted, or imprisoned for failing to pay."<sup>107</sup>
- In several cases, the FTC took action against companies that allegedly made unauthorized withdrawals from the checking accounts of people who had applied for online payday loans, or billed them for prepaid cards they had not purchased.<sup>108</sup>

The Consumer Financial Protection Bureau, which has broad authority to regulate payday lending, sued online lender CashCall in December 2013 for allegedly collecting on loans that were void in at least eight states and were made by a lender claiming tribal affiliation.<sup>109</sup> The CFPB also issued a civil investigative demand (subpoena) to online payday lenders claiming tribal affiliation and rejected a petition to set it aside based on the sovereignty claims.<sup>110</sup> And in July 2014, the bureau took enforcement action against ACE Cash Express, a payday lender with both storefront and online operations, alleging that it engaged in some of the types of illegal harassment and debt collection tactics described in this report. ACE entered into a consent order with the bureau and agreed to pay \$10 million in refunds and penalties.<sup>111</sup>

## Bank actions

Online operators depend on the ability to access a borrower's checking account directly through the use of electronic debit authorization. The Electronic Fund Transfer Act does not permit lenders to condition credit on granting access to a checking account for multipayment loans, but lenders generally make it more administratively difficult to obtain a loan via other means.<sup>112</sup> Borrowers who decline to grant access will receive their loan proceeds far later.<sup>113</sup> Therefore, consumers' banks and the Automated Clearing House system play a crucial role in enabling online payday lending.

Recently, banks have taken steps to protect accountholders, and the payments system itself, and have acted to limit their relationships with payday lenders.<sup>114</sup> JPMorgan Chase announced last year that it would make it easier for customers to stop unwanted or unauthorized withdrawals and close accounts, even if lenders continue to attempt to debit the accounts. It also reportedly began limiting customers' returned-item fees to one per lender in a 30-day period.<sup>115</sup>

NACHA's voting membership approved rule changes in August 2014 to improve the ACH system by reducing the number and costs of returned payment requests. The rule limits access by companies whose attempted withdrawals are declined at a rate over 15 percent, or 10 times that of typical companies (1.42 percent).<sup>116</sup> The recent Justice Department case against Four Oaks Bank identified 13 payday lenders with return rates exceeding 30 percent, meaning at least that share of attempted customer account debits were being returned unpaid.<sup>117</sup>

The approved amendments also lower the return rate threshold for unauthorized debits (for example, fraudulent transactions). By establishing these standards, the rule makes it harder for all merchants, including online lenders and debt collectors, to debit consumers' checking accounts in an aggressive or abusive fashion, and banks will continue to be held accountable if their merchant customers exceed allowable thresholds.<sup>118</sup> Although evidence suggests that some merchants will move outside the ACH system to avoid such safeguards, the NACHA rules will significantly improve the safety and fairness of the electronic payments system.<sup>119</sup>

In light of the evidence of widespread fraud and abuse in the online lending market, actions to protect the electronic payments system and the depositors who use it are justified. Otherwise, consumer bank accounts will remain vulnerable, and overall trust in banks and the payments system could be threatened. As NACHA explained in its proposal, the changes "are expected to improve the overall quality of the ACH Network by reducing the incidence of returned Entries and their associated costs, both financial and reputational, that such returned Entries impose on the ACH Network and its participants. These changes also are expected to increase customer satisfaction with the ACH Network by reducing the volume of transactions subject to customer dispute."<sup>120</sup>

## Policy recommendations

Responding to the harmful practices associated with Internet payday lending will require ongoing efforts to identify and stop fraudulent or abusive practices. Regulators, banks, and industry associations such as NACHA will continue to play an important role in frustrating the efforts of bad actors. More broadly, new regulatory guidelines are required to ensure that the loan products are safer and more transparent. Pew renews its call for regulators—most urgently the Consumer Financial Protection Bureau—to enact the following core policy principles, which are designed to cover all small-dollar cash loans, including storefront payday loans, online payday loans, and similar installment loans from banks and nonbanks:

1. **Ensure that the borrower has the ability to repay the loan as structured.** Pew's research indicates that for most borrowers, monthly payments above 5 percent of gross monthly income are unaffordable. Regulators should treat frequent refinancing or high default rates as evidence of unaffordability and poor underwriting.
2. **Spread loan costs evenly over the life of the loan.** Front-loading of fees and interest creates incentives for lenders to refinance loans and extend overall indebtedness. Any fees should be paid evenly over the life of the loan. Loans should have substantially equal payments, each of which reduces the principal, amortizing smoothly to a zero balance.
3. **Guard against harmful repayment or collections practices.** Borrowers need stronger rights to protect their checking accounts against unscrupulous lenders or debt collectors, and banks should be held more accountable for honoring their customers' requests to stop payments or cancel automatic electronic withdrawals.
4. **Require concise disclosures of periodic and total costs.**
5. **Continue to set maximum allowable charges.** Research shows loan markets serving those with poor credit histories are not price competitive.

For detailed policy recommendations, see The Pew Charitable Trusts, *Payday Lending in America: Policy Solutions* (2013), pages 44-7, available at [www.pewtrusts.org/small-loans](http://www.pewtrusts.org/small-loans).

## Conclusion

The online lending marketplace shares many of the problems observed in the storefront payday lending industry, including unaffordable payments, a gap between loans' packaging and borrowers' experiences, and extremely high prices. But online borrowers report additional problems with threats, abuses, unwanted products, unauthorized withdrawals from checking accounts, and dissemination of personal information. Thirty percent of borrowers report receiving threats that they will be arrested or that their family, friends, or employers will be contacted regarding their online payday loans.

Online lending has also placed borrower checking accounts at risk: 46 percent of borrowers report experiencing overdrafts; 32 percent report unauthorized withdrawals in connection with loans; and 22 percent report losing or closing bank accounts because of online loans. These problems are far more common with online than storefront loans.

Although the Internet has the potential to bring down loan costs through a lower-overhead business model, that potential has not been realized in the deep subprime small-loan marketplace. Instead, payday loans usually cost more online than at stores, and the prices charged often violate state laws, both in states without payday loan stores and in many that have them.

The abusive practices described in this report are concentrated among the approximately 70 percent of lenders that are not licensed by all the states where they lend. Some state regulators and attorneys general have sought to enforce laws against online lenders that are not licensed in their states, but they face significant challenges to their jurisdiction and their reach.

To address these problems, federal regulators, particularly the Consumer Financial Protection Bureau, should expand their efforts to enforce relevant laws, protect consumers, and ensure the soundness of the banking and electronic payment systems. They should also undertake new efforts to establish strong, clear guidelines for the small-dollar lending market as a whole. Banks, credit unions, finance companies, online lenders, and the next generation of innovators need clear and consistent rules. Beyond merely banning harmful practices, these rules should establish the principles of responsible lending and fair play. The CFPB has a historic opportunity to create these rules and to promote the safest and most competitive small-dollar loan market possible.

## Appendix A: Borrower demographics

As shown in Table A.1, people who borrow money online tend to have different demographic characteristics from those who borrow via payday loan stores. For example, online borrowers have higher incomes, averaging \$30,000 to \$40,000, with one-third earning more than \$50,000.

Table A.1

### Online and Storefront Payday Loan Borrowers Are Different

Internet borrowers earn more, have more education, and are younger than storefront borrowers

Demographic group	Percentage of storefront borrowers	Percentage of online borrowers
Homeowners	39	45
Renters	59	55
Single	38	46
Married	32	32
Separated/divorced	26	20
Widowed	3	2
Less than \$15,000	24	16
\$15,000 to \$24,999	25	20
\$25,000 to \$29,999	10	8
\$30,000 to \$39,999	13	13
\$40,000 to \$49,999	8	7
\$50,000 to \$74,999	8	15
\$75,000 to \$99,999	4	9
\$100,000 or more	4	10
African-American	23	26
Hispanic	14	12
White	57	49
Other race or ethnicity	5	10
Female	53	54
Male	47	46
Ages 18-34	39	43
Ages 35-49	33	38
Ages 50-64	20	16
Ages 65+	8	3
Nonparent	61	66
Parent	39	34
Less than high school	17	7
High school	40	23
Some college	30	40
College or more	12	29

Notes: The 4 percent of borrowers who have used both storefront and online payday loans are counted in both columns. The 7 percent of borrowers who have taken payday loans only from other sources, such as banks or employers, and the 1 percent who declined to state which method they used are excluded from this section. Results are based on 33,576 interviews conducted from August through December 2011, including 1,855 payday loan borrowers. For demographic data on all payday borrowers, see Page 35 of the first report in this series, *Payday Lending in America: Who Borrows, Where They Borrow, and Why* (2012), available at [pewtrusts.org/small-loans](http://pewtrusts.org/small-loans).

Source: Analysis of The Pew Charitable Trusts' survey data

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## Appendix B: Methodology

### Opinion research

Findings in this report are based on a survey conducted among storefront payday loan borrowers and online payday loan borrowers. The sample for this survey was compiled during eight months of screening on a nationally representative weekly survey. Borrower quotations in this report come from a series of focus groups with small-loan borrowers.

### Survey methodology

#### *Social Science Research Solutions (SSRS) omnibus survey*

The Pew small-dollar loans project contracted with SSRS to conduct the first nationally representative in-depth telephone survey with payday loan borrowers about their loan usage. To identify and survey a low-incidence population such as payday loan borrowers, SSRS screened 1,000 to 2,000 adults per week on its regular omnibus survey, using random-digit dialing (RDD) methodology, from August 2011 to April 2012. The term “omnibus” refers to a survey that includes questions on a variety of topics. This survey probably minimized payday loan borrowers’ denial of their usage of this product, because the omnibus survey included mostly nonfinancial questions purchased by other clients, and the payday loan questions were asked after other, less sensitive questions, giving interviewers a chance to establish a rapport with respondents.

The first phase of the research, to identify payday borrowers, asked respondents to the omnibus survey whether they had used a payday loan. If, during the months of August through mid-December, respondents answered that they had used a payday loan, they were placed in a file to be re-contacted later. Once the full-length survey was ready to field, people who had used a payday loan were then given the full-length survey and were paid an incentive of \$20 to maximize participation. Because of their relative scarcity in the population, online payday loan borrowers were given an incentive of \$35 for participating.

Respondents were told about the compensation only after having indicated that they had used a payday loan. Further, online payday loan borrowers who were identified during the early months of screening were sent a letter with a \$5 bill informing them that they would be contacted again to take the full-length survey. The second phase of the research involved re-contacting all respondents who answered that they had used a payday loan and immediately giving the full-length survey to anyone newly identified in the weekly omnibus survey as a payday loan borrower.

### Sample and interviewing

In the first phase of the survey, the Pew small-dollar loans project purchased time on SSRS’ omnibus survey, EXCEL, which covers the continental United States. Analysis of the incidence of payday borrowing was conducted after 33,576 adults had been screened and answered a question about payday loan usage. An additional 16,108 adults were screened in order to find a sufficient number of storefront payday loan, online payday loan, and auto-title loan borrowers to complete a 20-minute survey about their usage and views, for 49,684 people in total to complete the research. Sampling error for those incidence estimates from the omnibus survey of borrowers is plus or minus 0.24 percentage points.

In the second phase, a total of 451 adults completed the full-length storefront payday loan survey, and 252 adults completed the full-length online payday loan survey, for a total of 703 payday borrowers. Sampling error for the

full-length survey of payday borrowers is plus or minus 4.2 percentage points. Sampling error for the full-length survey of storefront payday loan borrowers is plus or minus 4.6 percentage points, and it is plus or minus 6.2 percentage points for the full-length survey of online payday loan borrowers.

EXCEL is a national weekly, dual-frame bilingual telephone survey. Each EXCEL survey consists of a minimum of 1,000 interviews, of which 300 interviews were completed with respondents on their cellphones and at least 30 were conducted in Spanish, ensuring unprecedented representation on an omnibus platform. Completed interviews are representative of the continental U.S. population of adults 18 and older. EXCEL uses a fully replicated, stratified, single-stage RDD sample of landline telephone household and randomly generated cellphones. Sample telephone numbers are computer-generated and loaded into online sample files accessed directly by the Computer-Assisted Telephone Interviewing (CATI) system. Within each sample household, a single respondent is randomly selected. Details about EXCEL and its weighting are available at: [http://www.pewtrusts.org/-/media/Assets/2012/07/19/Pew\\_Payday\\_Lending\\_Methodology.pdf](http://www.pewtrusts.org/-/media/Assets/2012/07/19/Pew_Payday_Lending_Methodology.pdf).

### Question wording: Omnibus survey

Wording for omnibus survey questions is available at [http://www.pewtrusts.org/-/media/Assets/2012/07/19/Pew\\_Payday\\_Lending\\_Methodology.pdf](http://www.pewtrusts.org/-/media/Assets/2012/07/19/Pew_Payday_Lending_Methodology.pdf).

Screening phase (measuring incidence and compiling sample for callbacks):

- In the past five years, have you used payday loan or cash advance services, where you borrow money to be repaid out of your next paycheck?
- And was that physically through a store, or on the Internet?

Re-contact phase (calling back respondents who answered affirmatively and identifying additional borrowers to take the full-length survey immediately):

- In the past five years, have you or has someone in your family used an in-person payday lending store or cash advance service?

### Question wording: Full-length survey of storefront and online payday loan borrowers

The data from the nationally representative, full-length survey of 451 storefront payday loan borrowers and 252 online payday loan borrowers are based on responses to the following questions, which Pew designed with assistance from SSRS and Hart Research Associates. Other questions from this survey have been published in previous reports. The sample for this telephone survey was derived from the RDD omnibus survey. All questions also included “Don’t know” and “Refused” options that were not read aloud.

### Survey questions

(Online)

Have you ever taken out an online payday loan that was set up to ONLY withdraw the fee or have they always been set up to withdraw the full amount?

- 1 Always set up to withdraw the full amount.
- 2 Set up to only withdraw the fee.
- 3 (DO NOT READ) Both/depends.

D (DO NOT READ) Don't know.

R (DO NOT READ) Refused.

(Online)

And could you request online that the full amount be withdrawn, or did you need to make the request by phone?

1 Could request online.

2 Had to request by phone.

3 (DO NOT READ) Either/both.

D (DO NOT READ) Don't know.

R (DO NOT READ) Refused.

(Storefront)

I'm going to read you several things that some people have told us happened to them. For each one I read, please tell me whether it has happened to you. How about (INSERT)?

a. Been threatened with arrest in connection with a payday loan.

b. Had someone threaten to contact your friends or family about your payday loan.

c. Had a bank account closed by your bank because of a payday loan.

d. Had a payday lender attempt to make a withdrawal that overdrew your bank account.

e. Had someone threaten to contact your employer about your payday loan.

f. Closed a bank account yourself to prevent a payday lender from taking money out of it.

Has this happened to you or not?

1 Has happened.

2 Has not happened.

3 (DO NOT READ) Does not apply.

D (DO NOT READ) Don't know.

R (DO NOT READ) Refused.

(Online)

I'm going to read you several things that some people have told us happened to them. For each one I read, please tell me whether it has happened to you. How about (INSERT)?

a. Closed a bank account yourself to prevent an online payday lender from taking money out of it.

b. Had a bank account closed by your bank because of an online payday loan.

c. Had an online payday lender make a withdrawal that overdrew your bank account.

Has this happened to you or not?

1 Has happened.

2 Has not happened.

- 3 (DO NOT READ) Does not apply.
- D (DO NOT READ) Don't know.
- R (DO NOT READ) Refused.

(Online)

Now I'm going to read you another list of things that some people who took out online payday loans say happened to them. For each one I read, please tell me whether it has happened to you in connection with an online payday loan. How about (INSERT)?

- a. Been threatened with arrest in connection with an online payday loan.
- b. Had someone threaten to contact your friends or family about your online payday loan.
- c. Received a loan or product that you did not apply for or authorize.
- d. Had someone threaten to contact your employer about your online payday loan.
- e. Had money withdrawn from your bank account without you authorizing it.
- f. Had your personal or financial information sold to a third party without your knowledge.
- g. Been contacted about a debt you did not actually owe.

Has this happened to you or not (in connection with an online payday loan)?

- 1 Has happened.
- 2 Has not happened.
- 3 (DO NOT READ) Does not apply.
- D (DO NOT READ) Don't know.
- R (DO NOT READ) Refused.

## Focus group methodology

Hart Research Associates and Public Opinion Strategies conducted three focus groups that were exclusively composed of online payday loan borrowers. The groups met in New York City and Manchester, New Hampshire, in September 2011. In May 2014, Pew also conducted four focus groups in St. Louis and four focus groups in Houston with people who had used small-dollar loans, including several people who had used online payday loans. All participants were recruited by employees of the focus group facilities. All groups were conducted in person, lasted two hours, and included six to 12 participants.

## Better Business Bureau complaint data

To determine whether complaints to the Better Business Bureau were made against online or storefront lenders, Pew classified lenders using the methods outlined below. In cases where the lender was online, Pew noted whether the company was a direct lender or a lead generator; however, despite best efforts, it is often difficult to determine whether the company has a lender's license. Payday loan lead generators are companies that obtain consumer information and loan requests to match them with one or more direct lenders operating in their networks. Some companies operate as both lenders and lead generators, meaning that if they are unable to approve consumers for loans, they will provide a match with another lender in their network. A number of companies offer loans both online and through storefront locations and are therefore classified as "both."

Online lenders have at least one of the following attributes:

- A company website stating they are a direct lender or that they will deposit cash directly into the consumer's account.
- Also included in this group are lead generators, but it is noted that they are lead generators and not lenders. Generally, a company's website will explicitly state that it is not a lender but works with lenders to provide loans.
- Also included are any companies that appear to be scams associated with online payday loans. Consumer complaint websites, as well as the BBB, note that a third-party company will charge for a payday loan application fee or other ancillary product when a consumer fills out an online payday loan application. Sometimes the money for the application fee, products, or payday loan protection will be withdrawn from the consumers' accounts without them receiving loan funds. Many of these third-party companies do not have websites and provide only phone numbers or limited contact information on the consumers' deposit account statements or through email.

Storefront locations have at least one of the following attributes:

- Have a website but offer funds in-store only and not online. The website may include the option to fill out the application online and complete the transaction in the store.
- Stores without websites and only a business name and address and/or phone number provided by BBB.

If Pew was unable to determine whether a lender had a website, we searched for the business address provided by the BBB and attempted to verify a physical location through Google Maps. In some cases, we were unable to locate either a valid website or a storefront location. Since complaints are from 2011, it is not unusual to discover that a company no longer exists, or that it is now a subsidiary of a larger parent company and operating under a different name. Thus, using the business name provided by the consumer did not always yield valid results. In addition, many business addresses refer to an office location and not a retail storefront.

If Pew was unable to determine the channel for the payday loan, we also searched online consumer complaint websites and blogs. Using these websites to find business information and complaints against lenders proved useful in determining whether the lenders operated through storefront locations or online, and also whether they were conducting business under additional names.

## Endnotes

- 1 "OLA Best Practices," Online Lenders Alliance, accessed Feb. 25, 2014, <http://www.onlendersalliance.org/?page=bestpractices>.
- 2 A review of Better Business Bureau data indicates few complaints against some large companies. Further, the Federal Trade Commission has not cited some firms for engaging in the type of illegal practices documented in this report. The Online Lenders Alliance has also supported efforts to crack down on some of the worst online practices. ("OLA Applauds FTC's Action Against Fraudulent Debt Collectors," July 1, 2014, <http://www.onlendersalliance.org/news/180304/Online-Lenders-Alliance-Applauds-FTC-Action-Against-Fraudulent-Debt-Collectors.htm> and "OLA Applauds FTC Ruling Against Payday Loan Bad Actors," Aug. 1, 2013, <http://www.onlendersalliance.org/news/134958/OLA-Applauds-FTC-Ruling-Against-Payday-Loan-Bad-Actors.htm>). LendUp, on its website, also separates itself from bad actors, stating: "It's important to distinguish between reputable payday lenders and those that are looking to sell your personal information or trap you in a cycle of debt." "How do I choose a short-term lender online?" June 16, 2014, <https://www.lendup.com/blog/author/Kirk%20Robinson,%20Customer%20Insights.html>; John Hecht, "Online Consumer Lending Industry Review: An Industry of Growth, Innovation, and Transition," Stephens Inc., Oct. 14, 2013. Presentation on file at The Pew Charitable Trusts.
- 3 "U.S. District Judge Finds that FTC Can Sue Deceptive Payday Loan Business Regardless of American Indian Tribal Affiliation," Federal Trade Commission, accessed March 19, 2014, <http://www.ftc.gov/news-events/press-releases/2014/03/us-district-judge-finds-ftc-can-sue-deceptive-payday-loan>.
- 4 Dennis Telzrow and David Burtzlaff, *Payday Loan Industry*, Stephens Inc. (2007).
- 5 "Alternative Financial Services: Innovating to Meet Customer Needs in an Evolving Regulatory Framework," presentation by John Hecht, Stephens Inc., Feb. 27, 2014, [http://cfsaa.com/Portals/0/cfsa2014\\_conference/Presentations/CFSA2014\\_THURSDAY\\_GeneralSession\\_JohnHecht\\_Stephens.pdf](http://cfsaa.com/Portals/0/cfsa2014_conference/Presentations/CFSA2014_THURSDAY_GeneralSession_JohnHecht_Stephens.pdf). Applicants must affirmatively consent to grant Automated Clearing House access to receive proceeds and make payments. The exception to this scenario is the rare case in which an applicant declines to grant ACH access for an online installment payday loan. These borrowers must go through a more difficult application process, wait longer to receive the loan proceeds, and initiate the repayments.
- 6 Telemarketing Sales Rule; Proposed Rule, 78 Fed. Reg. 41200 (July 9, 2013). Evidence suggests that lenders and other merchants sometimes rely on remotely created checks or remotely created payment orders to complete transactions outside the ACH system for the purpose of avoiding its rules designed to limit the frequency of debits on accounts with insufficient funds.
- 7 Consumer Federation of America, "CFA Survey of Online Payday Loan Websites" (2011), <http://www.consumerfed.org/pdfs/CFASurveyInternetPaydayLoanWebsites.pdf>.
- 8 Advance America, Cash Advance Centers Inc., Form 10-K, fiscal year ending Dec. 31, 2011, 41; Consumer Federation of America, "CFA Survey of Online Payday Loan Websites," August 2011, <http://www.consumerfed.org/pdfs/CFASurveyInternetPaydayLoanWebsites.pdf>; David Burtzlaff and Brittny Groce, *Payday Loan Industry*, Stephens Inc. (2011). The storefront figure is based on the 2011 annual (10-K) report filed by the largest storefront payday lender, Advance America. The online figure is based on the \$25 per \$100 rate reported by Consumer Federation of America and also by Stephens Inc.
- 9 Advance America, Cash Advance Centers Inc., accessed June 30, 2014, <https://www.advanceamerica.net/locations/information/store-6501/OH/43207/39.8942938/-82.9954969/3296-South-High-Street/Columbus>. For example, Advance America charges higher fees for online loans than in-store loans in Ohio.
- 10 For examples, see [www.AmericanWebLoan.com](http://www.AmericanWebLoan.com) and [www.EZPaydayCash.com](http://www.EZPaydayCash.com).
- 11 The Pew Charitable Trusts, "How State Rate Limits Affect Payday Loan Prices," April 2014, [http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs/content-level\\_pages/fact\\_sheets/StateRateLimitsFactSheetpdf.pdf](http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs/content-level_pages/fact_sheets/StateRateLimitsFactSheetpdf.pdf). For company examples, see [www.CheckIntoCash.com](http://www.CheckIntoCash.com) and [www.AdvanceAmerica.net](http://www.AdvanceAmerica.net).
- 12 David Burtzlaff and Brittny Groce, *Payday Loan Industry*.
- 13 In conversations with Pew, several online lenders noted higher loss rates on customers' first loans.
- 14 David Burtzlaff and Brittny Groce, *Payday Loan Industry*.
- 15 "The LendUp Ladder," LendUp, accessed June 10, 2014, <https://www.lendup.com/en/ladder>.
- 16 Lenders advertise this practice on their websites. For examples, see <http://www.mycashadvance.com/faq.aspx#6> and <https://www.minutefunds.com/FAQs.html>.
- 17 The Pew Charitable Trusts, *Payday Lending in America: Policy Solutions* (2013), 28, [http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs\\_assets/2013/PewPaydayPolicySolutionsOct2013pdf.pdf](http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs_assets/2013/PewPaydayPolicySolutionsOct2013pdf.pdf).
- 18 "Cash America Announces the Filing of an Application for the Withdrawal of the Registration Statement of its Wholly-Owned Subsidiary Enova International Inc.," Cash America International Inc., last modified July 26, 2012, <http://www.cashamerica.com/>

- docs/default-source/press-releases-2012/Enova\_IPO\_Withdrawal.pdf?sfvrsn=0; Neha Dimri, "Cash America Looking to Spin Off Online Lending Business," Reuters, April 10, 2014, <http://www.reuters.com/article/2014/04/10/us-cashamerica-divestiture-idUSBREA39ORW20140410>. The proposal was withdrawn in 2012.
- 19 Enova International Inc., Form S-1, filed Sept. 15, 2011, <http://www.nasdaq.com/markets/ipos/filing.ashx?filingid=7785977>.
- 20 Enova International Inc., Form S-1, filed Sept. 15, 2011, Section 17, operating segment information, F-30. Approximately 16 percent of revenue (\$59.2 million) covered marketing, and \$50.2 million was spent on administration.
- 21 Advance America, Cash Advance Centers Inc., Form 10-K, fiscal year ending Dec. 31, 2011, 41.
- 22 Enova International Inc., Form S-1, filed Sept. 15, 2011, Section 17, operating segment information, F-30, <http://www.nasdaq.com/markets/ipos/filing.ashx?filingid=7785977>.
- 23 Advance America, Cash Advance Centers Inc., Form 10-K, fiscal year ending Dec. 31, 2011, <http://www.sec.gov/Archives/edgar/data/1299704/000104746912002758/a2208026z10-k.htm>; World Acceptance Corporation, Form 10-K, fiscal year ending Dec. 31, 2013, <http://www.sec.gov/Archives/edgar/data/108385/000010838514000020/wrld-331201410xk.htm#sB457201A150DD34C2CA1B1B7E63EF27A>. Figures obtained by dividing losses by revenue.
- 24 Paige Marta Skiba and Jeremy Tobacman, "Do Payday Loans Cause Bankruptcy?," Vanderbilt Law and Economics research paper, no. 11-13 (2011), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1266215](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266215); Eduardo De La Torre et al. v. CashCall Inc., No. 08-cv-03174-MEJ (U.S. Dist. Ct. N.D.CA. 2014), <http://sturdevantlaw.com/wp-content/uploads/2011/11/ECF-220-140730-Order-Re-MSJs.pdf>; Michael Anderson and Raymond Jackson, *Perspectives on Payday Loans: The Evidence From Florida* (2010), [https://www.veritecs.com/Docs/Perspectives\\_on\\_Payday\\_Loans\\_%20July\\_26\\_2010.pdf](https://www.veritecs.com/Docs/Perspectives_on_Payday_Loans_%20July_26_2010.pdf); Are Alternative Financial Products Serving Consumers?," hearings on alternative financial products before the Senate Subcommittee on Financial Institutions and Consumer Protection, Day 1, 113th Cong. (2014), statement of Stephanie Klein, director, NetCredit Consumer Lending, see video at 1:00:45: [http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.LiveStream&Hearing\\_id=3fdcfbbe-9681-4a6d-83e5-5d1ace44289c](http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.LiveStream&Hearing_id=3fdcfbbe-9681-4a6d-83e5-5d1ace44289c). Among storefront payday loan applicants who meet the preliminary borrowing criteria (typically income, checking account, and references), 78.3 percent were approved by the large lender whose data were studied. As noted in a recent class action lawsuit, online installment lender CashCall Inc. allegedly rejected more than 72 percent of applications during the time frame covered by the lawsuit. Veritec data from Florida similarly indicate that 78 to 82.5 percent of payday loan applicants are approved. In her testimony, Stephanie Klein stated that NetCredit approves 15-20 percent of loan applicants. Additionally, news accounts and public documents indicate that conventional and technologically advanced online lenders reject two-thirds or more of first-time applicants. See, for example, Evgeny Morozov, "Your Social Networking Credit Score," Slate, Jan. 30, 2013, [http://www.slate.com/articles/technology/future\\_tense/2013/01/wonga\\_lenddo\\_lendup\\_big\\_data\\_and\\_social\\_networking\\_banking.html](http://www.slate.com/articles/technology/future_tense/2013/01/wonga_lenddo_lendup_big_data_and_social_networking_banking.html).
- 25 Online Lenders Alliance, 2013 Annual Report, [http://c.yimcdn.com/sites/www.onlinelendersalliance.org/resource/resmgr/2013\\_OLA\\_Annual\\_Report\\_-\\_FIN.pdf](http://c.yimcdn.com/sites/www.onlinelendersalliance.org/resource/resmgr/2013_OLA_Annual_Report_-_FIN.pdf). This survey found that 27 percent of online borrowers have more than \$50,000 in household income, and 52 percent have household income below \$35,000.
- 26 Leena Rao, "Data Focused Underwriting and Credit Analysis Platform ZestFinance Raises \$20M from Peter Thiel and Others," *TechCrunch*, July 31, 2013, <http://techcrunch.com/2013/07/31/data-focused-underwriting-and-credit-analysis-platform-zestfinance-raises-20m-from-peter-thiel-and-others/>; Penny Crosman, "ZestFinance Aims to Fix Underwriting for the Underbanked," *American Banker*, Nov. 19, 2012, [http://www.americanbanker.com/issues/177\\_223/zestfinance-aims-to-fix-underwriting-for-the-underbanked-1054464-1.html](http://www.americanbanker.com/issues/177_223/zestfinance-aims-to-fix-underwriting-for-the-underbanked-1054464-1.html).
- 27 National Consumer Law Center, "Big Data: A Big Disappointment for Scoring Consumer Credit Risk" (2014), <http://www.nclc.org/images/pdf/pr-reports/report-big-data.pdf>.
- 28 Enova Systems Inc., Form 10-K, fiscal year ending Dec. 31, 2013, <http://www.sec.gov/Archives/edgar/data/922237/000141588914001325/ena10kdec312013.htm>. Filings from Enova and public statements from Elevate Credit Inc. indicate that they are not earning supernormal returns, which would be another possible reason for charging such high prices.
- 29 Eduardo De La Torre et al. v. CashCall Inc., No. 08-cv-03174-MEJ, (U.S. Dist. Ct. N.D.CA. 2014), <http://sturdevantlaw.com/wp-content/uploads/2011/11/ECF-220-140730-Order-Re-MSJs.pdf>. For a \$2,600 loan from CashCall, borrowers paid \$11,000 over the 42-month term, or about \$260 per month.
- 30 "Privacy Policy," MoneyMutual.com, last modified Aug. 21, 2013, <https://moneymutual.com/privacy-policy>. The policy states, "We do not endorse, nor are we responsible for the accuracy of the privacy policies and/or terms and conditions of each of the third party lenders or sellers that may advertise at the website."
- 31 Andrew R. Johnson, "Middlemen for Payday Lenders Under Fire," *The Wall Street Journal*, April 7, 2014, <http://online.wsj.com/news/articles/SB10001424052702304819004579487983000120324>; Consumer Federation of America, CFA Survey of Online Payday Loan Websites, 2011, <http://www.consumerfed.org/pdfs/CFASurveyInternetPaydayLoanWebsites.pdf>. John Hecht, an analyst with investment banking firm Stephens Inc., said in *The Wall Street Journal* piece: "MoneyMutual and other lead-generation companies are an important source of business for payday lenders. In the past, as much as 75% of online payday-loan volume has been sourced from such

companies.” In conversations with Pew, other industry observers suggested that the figure is closer to half. Advertisements referenced are those that first appear after searches for “payday loan” and similar terms. The Consumer Federation of America’s 2011 brief also reports that “the majority of websites are lead generators and marketing sites.”

- 32 David Burtzloff and Brittny Groce, *Payday Loan Industry*, 15; John Hecht, Stephens Inc. (2013), investor presentation, on file with The Pew Charitable Trusts.
- 33 Carter Dougherty, “Data From Payday Loan Applicants Sold in Online Auctions,” Bloomberg News, June 8, 2012, <http://www.bloomberg.com/news/2012-06-08/data-from-payday-loan-applicants-sold-in-online-auctions.html>.
- 34 John Hecht, Stephens Inc. (2013), investor presentation, on file with The Pew Charitable Trusts.
- 35 Melanie Hicken, “Big Data Knows You’re Broke,” CNN Money, April 29, 2014, <http://money.cnn.com/2014/04/29/pf/data-brokers/index.html?iid=Lead>. For example, a list of payday loan applicants can be purchased from a list broker by visiting <http://www.consumerbase.com/mailling-lists/payday-loan-applicants-mailing-list.html> or <http://datacards.geonmedia.com/market;jsessionid=48E5C871BFCF4497650100DB75C8F279?page=research/datacard&id=201616>.
- 36 Consumer Financial Protection Bureau, *Examination Procedures: Short-Term, Small Dollar Lending* (2012), <http://files.consumerfinance.gov/f/2012/01/Short-Term-Small-Dollar-Lending-Examination-Manual.pdf>; “McDaniel Seeks Compliance With Civil Investigative Demand,” Arkansas Attorney General’s Office, Oct. 25, 2012, [http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news\\_id=601](http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news_id=601). A civil investigative demand is a subpoena issued by a government official to a company that is under investigation. The company is required to supply information, reports, or answers to questions.
- 37 The Pew Charitable Trusts, *Payday Lending in America: Who Borrows, Where They Borrow, and Why* (2012), 16, [http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes\\_assets/2012/PewPaydayLendingReportpdf.pdf](http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_assets/2012/PewPaydayLendingReportpdf.pdf).
- 38 The Pew Charitable Trusts, *Payday Lending in America: Who Borrows, Where They Borrow, and Why*, 23. Price variation does not account for these differences, as demonstrated by the fact that the share of adults who borrow in states where payday loans cost more than the average is not lower than in states where loans have average or lower-than-average costs.
- 39 The A.C. Nielsen Co., 2013. On file with The Pew Charitable Trusts. The selected payday loan advertisers represent the companies with the highest total number of ad units purchased from 2009 through 2012. The advertisers were ranked by amount spent during the 12 months from June 2012 through May 2013. The term “payday” also includes payday installment loans.
- 40 Findings are based on 2014 data from market research firms SpyFu, SEMRush, and KeywordSpy.
- 41 Ken Rees, “The Common Ground on Short-Term Lending,” *American Banker*, Feb. 27, 2014, <http://www.americanbanker.com/bankthink/the-common-ground-on-short-term-lending-1065913-1.html>; Sasha Orloff and Jacob Rosenberg, “Yes, the Payday Loan Can Be Reinvented,” *American Banker*, Feb. 21, 2013, <http://www.americanbanker.com/bankthink/yes-the-payday-loan-can-be-reinvented-1056953-1.html>.
- 42 “Frequently Asked Questions,” Ameriloan, accessed April 29, 2014, [https://mobile.ameriloan.com/?page=info\\_faq](https://mobile.ameriloan.com/?page=info_faq).
- 43 “Frequently Asked Questions,” U.S. Fast Cash, accessed April 29, 2014, [https://mobile.usfastcash.com/?page=info\\_faq](https://mobile.usfastcash.com/?page=info_faq).
- 44 “Products and Services,” Epic Loan Systems, accessed March 19, 2014, <http://www.epicloansystems.com/products-services.aspx>. The website states, “For example, if the customer wants a ten-payment loan, where the first 3 payments are interest-only, EPIC’s FlexPay system can deliver.” “Castle Payday Rates,” Castle Payday, accessed March 19, 2014, <https://castlepayday.com/loan-rates>.
- 45 See for example, Federal Trade Commission v. Williams, Scott, & Associates LLC et al., May 27, 2014, <http://www.ftc.gov/system/files/documents/cases/160701williamsscottcmpt.pdf>; “At the FTC’s Request, Court Halts Collection of Allegedly Fake Payday Debts,” July 1, 2014, <http://www.ftc.gov/news-events/press-releases/2014/07/ftcs-request-court-halts-collection-allegedly-fake-payday-debts>. An excerpt from the FTC’s press release in this case follows: “Many consumers in this case were victimized twice,” said Jessica Rich, director of the Federal Trade Commission’s Bureau of Consumer Protection. “First when they inquired about payday loans online and their personal information was not properly safeguarded, and later, when they were harassed and intimidated by these defendants, to whom they didn’t owe any money.”
- 46 Consumer Financial Protection Bureau, *Supervisory Highlights*, Spring 2014, [http://files.consumerfinance.gov/f/201405\\_cfpb\\_supervisory-highlights-spring-2014.pdf](http://files.consumerfinance.gov/f/201405_cfpb_supervisory-highlights-spring-2014.pdf).
- 47 “Fake Debt Collectors,” Federal Trade Commission, last modified Feb. 2012, <https://www.consumer.ftc.gov/articles/0258-fake-debt-collectors>; “Possible Payday Loan Collection Scam,” Washington State Department of Financial Institutions, last modified Feb. 18, 2014, <http://dfi.wa.gov/consumers/alerts/cash-usa.htm>; “Consumer Alert: Most Common Scams of 2013 Identified,” Arkansas Attorney General’s Office, last modified March 12, 2014, <http://arkansasag.gov/news-and-consumer-alerts/details/consumer-alert-most-common-scams-of-2013-identified>.

- 48 For information about laws governing debt collection practices, see the Federal Trade Commission's website, <http://www.consumer.ftc.gov/articles/0149-debt-collection>. See also the National Consumer Law Center's website, <http://www.nclc.org/issues/debt-collection.html>.
- 49 Lea Shepard, "Creditors' Contempt," *Brigham Young University Law Review*, 1509 (2011): 104, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1928068](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1928068); Jim Gallagher, "Payday Lenders Use Courts to Create Modern Debtors' Prison," *St. Louis Post-Dispatch*, Aug. 19, 2012, [http://www.stltoday.com/business/local/payday-lenders-use-courts-to-create-modern-debtors-prison/article\\_f56ca6aa-e880-11e1-b154-0019bb30f31a.html](http://www.stltoday.com/business/local/payday-lenders-use-courts-to-create-modern-debtors-prison/article_f56ca6aa-e880-11e1-b154-0019bb30f31a.html); Jessica Silver-Greenberg, "Welcome to Debtors' Prison, 2011 Edition," *The Wall Street Journal*, March 17, 2011, <http://online.wsj.com/news/articles/SB10001424052748704396504576204553811636610>. In some instances, warrants have been issued or people have been jailed for "failure to appear," "theft by check," or other charges related to nonpayment of a loan.
- 50 List brokers and others regularly offer "aged" leads—generally meaning people who applied for payday loans more than 24 hours previously—for sale online. See, for example, <http://www.linkedin.com/groups/20000-Fresh-Aged-Payday-Loan-4282879.S162779671> and <http://www.paydayloanleads.com/>, accessed April 28, 2014.
- 51 "Madigan Cracks Down On Unlicensed, Predatory Payday Lenders," Illinois Attorney General's Office, last modified April 8, 2014, [http://www.illinoisattorneygeneral.gov/pressroom/2014\\_04/20140408.html](http://www.illinoisattorneygeneral.gov/pressroom/2014_04/20140408.html). Illinois Attorney General Lisa Madigan filed a lawsuit against MoneyMutual alleging that it offered loans that violate state law. She also "expressed concerns about the company's data collection practices. ... MoneyMutual requires potential borrowers to share their personal banking information, Social Security number, date of birth, driver's license information, private address and employment records, all of which can be shared with third parties, putting borrowers at significant risk of identity theft."
- 52 Washington State Department of Financial Institutions, "Consumer Alert: Lead Generators," [www.dfi.wa.gov/consumers/alerts/lead-generators-cashadvanceresults.htm](http://www.dfi.wa.gov/consumers/alerts/lead-generators-cashadvanceresults.htm); "Consumer Alert: Consumers Should Be Wary of Unlicensed Payday Lenders Doing Business Online," Florida Department of Financial Services, last modified June 7, 2011, <http://www.myfloridacfo.com/pressoffice/ViewConsumerAlert.asp?ID=3895>; "Consumer Alert: Governor Cuomo Advises New Yorkers to Protect Against Identity Theft During Holiday Shopping Season," New York Department of Financial Services, last modified Dec. 19, 2013, <http://www.dfs.ny.gov/about/press2013/pr1312191.htm>.
- 53 Richard Cordray, Consumer Financial Protection Bureau, remarks at payday loan field hearing, (Jan. 19, 2012), [www.consumerfinance.gov/speeches/remarks-by-richard-cordray-at-the-payday-loan-field-hearing-in-birmingham-al/](http://www.consumerfinance.gov/speeches/remarks-by-richard-cordray-at-the-payday-loan-field-hearing-in-birmingham-al/).
- 54 For example, see CashAdvance.com, QuickerCash.com, and BetterLoanChoice.com.
- 55 The Pew Charitable Trusts, *Payday Lending in America: How Borrowers Choose and Repay Payday Loans*, February 2013, 32-35, [http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes\\_assets/2013/PewChoosingBorrowingPaydayFeb2013.pdf](http://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_assets/2013/PewChoosingBorrowingPaydayFeb2013.pdf)
- 56 The survey question did not specify whether borrowers learned of withdrawals by seeing their account histories, because of overdraft, or through alerts from their banks or credit unions.
- 57 "FTC Action Halts Operation That Billed More Than \$25 Million to Consumers' Bank and Credit Card Accounts Without Their Consent," Federal Trade Commission, last modified Feb. 20, 2013, <http://www.ftc.gov/news-events/press-releases/2013/02/ftc-action-halts-operation-billed-more-25-million-consumers-bank>.
- 58 "Online Marketers of Prepaid Debit Cards to Subprime Consumers Will Pay More Than \$2.2 Million to Settle FTC Charges," Federal Trade Commission, last modified Jan. 24, 2008, <http://www.ftc.gov/news-events/press-releases/2008/01/online-marketers-prepaid-debit-cards-subprime-consumers-will-pay>.
- 59 "Payday Loan Marketers Who Allegedly Tricked Consumers Into Buying Prepaid Debit Cards Will Pay More Than \$800,000 to Settle FTC Charges," Federal Trade Commission, last modified March 17, 2011, [www.ftc.gov/opa/2011/03/everprivate.shtml](http://www.ftc.gov/opa/2011/03/everprivate.shtml); "Consumer Alert: USA Payday Loan," Washington State Department of Financial Institutions, last modified April 17, 2012, <http://dfi.wa.gov/consumers/alerts/usa-payday-loan.htm>.
- 60 "Internet Payday Lending Alert," California Department of Corporations, last modified Aug. 13, 2012, [www.corp.ca.gov/Press/news/2012/InternetPaydayLendingAlert\\_8-13-12.pdf](http://www.corp.ca.gov/Press/news/2012/InternetPaydayLendingAlert_8-13-12.pdf).
- 61 For example, this language is included at: <https://www.atlasmoneyonline.com/privacy.html>, accessed June 26, 2014. Cashback Advance uses the same language: <https://www.cashbackadvance.com/website/privacy-policy.html>, accessed June 9, 2014. ACE Cash Express uses similar language but leaves out the words "and eligible for payment retrieval," <https://www.acecashexpress.com/payday-loans/texas/more-information>, accessed June 9, 2014.
- 62 "Attack of the 'Zombie' Bank Account: Some Banks Reopen Accounts—and Impose Fees—Even After They've Been Closed," *Consumer Reports*, August 2012, <http://www.consumerreports.org/cro/magazine/2012/08/attack-of-the-zombie-bank-account/index.htm>.
- 63 Jessica Silver-Greenberg, "JPMorgan Chase is Reining In Payday Lenders," *The New York Times*, March 19, 2013, [http://dealbook.nytimes.com/2013/03/19/jpmorgan-reining-in-payday-lenders/?\\_php=true&\\_type=blogs&\\_r=0](http://dealbook.nytimes.com/2013/03/19/jpmorgan-reining-in-payday-lenders/?_php=true&_type=blogs&_r=0); "Request for Comment and Request for Information," National Automated Clearing House Association, Nov. 11, 2013, [https://www.nacha.org/sites/default/files/files/ACH\\_](https://www.nacha.org/sites/default/files/files/ACH_)

Rules/2013%20RFC/ACH%20Network%20Risk%20and%20Enforcement%20Topics%20-%20Rule%20Proposal%20Description%20-%20November%2011%202013.pdf; The Pew Charitable Trusts, *Payday Lending in America: Policy Solutions*, 45. Refer to section “Guard against harmful repayment or collection practices.”

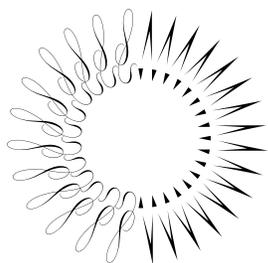
- 64 The Better Business Bureau requires that all complaints be submitted in writing, either online or through standard mail. The online submission tool allows consumers to search for the business and populate the information or enter the business information on their own. (This method may explain some of the variation in business names for the same company.)
- 65 In total, 4,070 complaints were received, but Pew excluded 52 that originated from Canadian residents, leaving 4,018 complaints. The BBB does not take complaints against companies incorporated outside the U.S. or Canada (for these companies, it encourages consumers to contact the International Consumer Protection and Enforcement Network), so this data set probably underrepresents complaints against online payday lenders. Although the BBB collects a variety of information on payday loan complaints, it does not specify the channel through which the loan was obtained—at a storefront or online. In most cases, however, it does provide the consumer’s city and state, as well as the company’s name and address. Using this information, Pew was able to verify the channel for 99 percent of complaints made against payday lenders. Pew undertook this categorization before receiving the 2012 and 2013 data.
- 66 John Hecht, Stephens Inc. (2014). Stephens Inc. estimates that stores account for two-thirds of loan volume.
- 67 Details on how businesses were classified is included in the methodology section of the report.
- 68 “Nature of Complaint,” Better Business Bureau, accessed June 30, 2014, <https://www.bbb.org/consumer-complaints/file-a-complaint/nature-of-complaint/>.
- 69 Nine in 10 complaints are against online lenders, but seven of the 10 states with the most complaints also have stores. This finding would be unlikely if rates of online borrowing were far higher in states without stores. The 10 states with the most complaints, in order, are Texas, California, New York, Florida, Pennsylvania, Illinois, North Carolina, Ohio, Michigan, and Missouri.
- 70 “DFI Issues Cease And Desist Order Against an Internet Payday Lender for Violating State and Federal Collection Laws,” Washington State Department of Financial Institutions, last modified Oct. 18, 2010, <http://www.dfi.wa.gov/consumers/news/2010/unlicensed-internet-lenders.htm>. This news release from the Washington State Department of Financial Institutions highlights one example of how states enforce licensing laws. Other states have followed similar measures to ensure that online lenders are state-licensed entities and subject to the same laws as storefront lenders. As discussed elsewhere in this report, however, some courts have ruled that under certain circumstances, such as when the lender may validly claim tribal sovereign immunity, states do not have authority over online lenders.
- 71 John Hecht, Stephens Inc. (2013), investor presentation, on file with The Pew Charitable Trusts.
- 72 5 Del. C. §978, 5 Del. C. §2227 et seq., 5 Del. C. §2744, and §2202. The Delaware law, which took effect in January 2013, capped the number of payday loans to five per borrower per 12 months and changed the maximum payday loan size from \$500 to \$1,000. Many online lenders have moved to installment loans to remain viable.
- 73 12 U.S.C. § 38: US Code—Section 38: The National Bank Act; The Pew Charitable Trusts, *Policy Solutions*, endnote 154; The Pew Charitable Trusts, “How State Rate Limits Affect Payday Loan Prices.” According to the National Bank Act, 43 states and the District of Columbia set maximum rates for payday loans, and of the seven states that do not set rates on consumer installment loans, three have established maximum rates for pawn loans.
- 74 Sheila Bair, “Low-Cost Payday Loans: Opportunities and Obstacles,” the Annie Casey Foundation (2005), [http://www.cfsinnovation.com/sites/default/files/imported/managed\\_documents/low-cost\\_payday\\_loans\\_opportunities\\_and\\_obstacles.pdf](http://www.cfsinnovation.com/sites/default/files/imported/managed_documents/low-cost_payday_loans_opportunities_and_obstacles.pdf); Michael Stegman, “Payday Lending,” *The Journal of Economic Perspectives* 21 (2007): doi:10.1257/jep.21.1.169; “Guidelines for Payday Lending,” Federal Deposit Insurance Corp., last modified Feb. 25, 2005, <http://www.fdic.gov/news/news/financial/2005/fil1405a.html>; OCC advisory letter, Office of the Comptroller of the Currency, last modified Nov. 27, 2000, <http://www.occ.gov/static/news-issuances/memos-advisory-letters/2000/advisory-letter-2000-10.pdf>.
- 75 Quik Payday Inc. v. Stork, 549 F. 3d 1302 (10th Cir. 2008); Consumer Federation of America, *Internet Payday Lending* (2004), 9 and 22, [http://www.consumerfed.org/pdfs/Internet\\_Payday\\_Lending113004.PDF](http://www.consumerfed.org/pdfs/Internet_Payday_Lending113004.PDF).
- 76 For example, see <http://www.mass.gov/ocabr/banking-and-finance/laws-and-regulations/enforcement-actions/2013-dob-enforcement-actions/westernsky04042013.html> or <http://www.idfpr.com/DFI/CCD/Discipline/13CC499503MNEservicesCDOOrder.pdf>. (See Page 23 for more detail.)
- 77 Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services, U.S. Dist., LEXIS 144656, 2013 WL 5460185 (S.D.N.Y. 2013).
- 78 Advance America operates under a variety of names and works with various affiliates online and in stores. See [www.purposefinancialservices.com/assets/uploads/documents/Ohio\\_VS\\_AA\\_CK\\_Cashing\\_AA0062OH-CC\\_1.11.12.pdf](http://www.purposefinancialservices.com/assets/uploads/documents/Ohio_VS_AA_CK_Cashing_AA0062OH-CC_1.11.12.pdf) and [www.advanceamerica.net/assets/uploads/documents/privacy-policies/mississippi.pdf](http://www.advanceamerica.net/assets/uploads/documents/privacy-policies/mississippi.pdf). Cash America International also operates under different names and affiliates with companies in the U.S. and other countries. In 2006, it acquired CashNetUSA, its online lending entity.

See [www.cashamerica.com/Files/NewsReleases/2006/06\\_0918%20CashNetUSA%20Purch.pdf](http://www.cashamerica.com/Files/NewsReleases/2006/06_0918%20CashNetUSA%20Purch.pdf). CashNetUSA's advertisements state that the company has served more than 1.5 million customers.

- 79 For example, CashNetUSA operates as a credit services organization in Ohio, <http://www.cashnetusa.com/fee-schedule-ohio.html>.
- 80 For example, ACE Cash Express operates as a credit access business in Texas, [https://www.acecashexpress.com/-/media/Files/Products/Shared/Internet/License/TX\\_License.pdf](https://www.acecashexpress.com/-/media/Files/Products/Shared/Internet/License/TX_License.pdf).
- 81 Adam Mayle, "Usury on the Reservation: Regulation of Tribal-Affiliated Payday Lenders," *Review of Banking & Financial Law* 31 (2012): 1053, <http://www.bu.edu/law/central/jd/organizations/journals/banking/archives/documents/volume31/UsuryOnTheReservation.pdf>. Historically, an arm that is created and overseen by a tribe is considered to have sovereign immunity.
- 82 Nathalie Martin and Joshua Schwartz, "The Alliance Between Payday Lenders and Tribes: Are Both Tribal Sovereignty and Consumer Protection at Risk?" 69 *Washington & Lee Law Review* 69 (2012): 751 <http://scholarlycommons.law.wlu.edu/wlulr/vol69/iss2/9/>; Baillie v. Processing Solutions LLC et al., No. RG 07-327031 (Calif. Sup. Ct.), 2011, <https://www.documentcloud.org/documents/250961-modoc-tribe-share-of-payday-lending-business.html#document/p13/a33656>.
- 83 State of Colorado v. Cash Advance et al., No. 05CV1143, slip op. at 10 (Denver Dist. Ct. 2012).
- 84 Nathalie Martin and Joshua Schwartz, "The Alliance Between Payday Lenders and Tribes."
- 85 Michael Hudson and David Heath, "Fights Over Tribal Payday Lenders Show Challenges of Financial Reform," Center for Public Integrity, Feb. 7, 2011, <http://www.publicintegrity.org/2011/02/07/2151/fights-over-tribal-payday-lenders-show-challenges-financial-reform>.
- 86 Kevin Wack and Joe Adler, "Cheat Sheet: Online Lenders' Legal Minefield," *American Banker*, Oct. 1, 2013, [http://www.americanbanker.com/issues/178\\_190/cheat-sheet-online-lenders-legal-minefield-1062524-1.html?zkPrintable=1&nopagination=1](http://www.americanbanker.com/issues/178_190/cheat-sheet-online-lenders-legal-minefield-1062524-1.html?zkPrintable=1&nopagination=1).
- 87 Commonwealth of Pennsylvania Department of Banking and Securities Bureau of Compliance and Licensing v. Carey Vaughn Brown, No. 130009 (ENF-C&D) (2013); State of Arkansas v. Chris Kamberis et al., No. 60CV-14-2198 (Ark. Cir. Ct. 2014). According to the Pennsylvania Banking Department, Brown and his affiliated companies conducted operations from Chattanooga and Rossville in Tennessee and Carson City, Silver Springs, and Las Vegas in Nevada. However, they had post office boxes, mailing addresses, and service providers located in Grenada, Bermuda, the British West Indies, and Canada.
- 88 New York Department of Financial Services, letter to financial institutions regarding illegal online payday loans offered and sold to New York customers, last modified Aug. 6, 2013, <http://www.dfs.ny.gov/about/press2013/pr130806-link1.pdf>.
- 89 "Cuomo Administration Takes Action to Halt Illegal, Online Payday Lending Through Debit Card Networks," New York Governor's Office, April 30, 2014, <https://www.governor.ny.gov/press/04302014-online-payday-lending>.
- 90 "McDaniel Files Suit Against Online Payday Lender," Arkansas Attorney General's Office, Sept. 14, 2011, [http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news\\_id=460](http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news_id=460); "McDaniel Obtains Court Orders To Bar Online Payday Lenders," Arkansas Attorney General's Office, May 4, 2011, [http://www.ag.state.ar.us/newsroom/index.php?do:newsDetail=1&news\\_id=418](http://www.ag.state.ar.us/newsroom/index.php?do:newsDetail=1&news_id=418); "McDaniel Files Suit Against Online Payday Lenders," Arkansas Attorney General's Office, June 9, 2014, <http://arkansasag.gov/news-and-consumer-alerts/details/mcdaniel-files-suit-against-online-payday-lenders>.
- 91 State of Minnesota v. CashCall Inc. et al., No. 27-CV-13-12740 (MN Dist. Ct. 2013).
- 92 "Madigan Cracks Down on Unlicensed, Predatory Payday Lenders," Office of the Illinois Attorney General, last modified April 8, 2014, [http://illinoisattorneygeneral.gov/pressroom/2014\\_04/20140408.html](http://illinoisattorneygeneral.gov/pressroom/2014_04/20140408.html).
- 93 "Attorney General Announces \$1,000,000 Crackdown on Illegal Lending," Vermont Office of the Attorney General, last modified April 23, 2014, [http://ago.vermont.gov/focus/news/attorney-general-announces-\\$1000000-crackdown-on-illegal-lending.php](http://ago.vermont.gov/focus/news/attorney-general-announces-$1000000-crackdown-on-illegal-lending.php); Justin E. Kolber, assistant attorney general, letter to Jim Condon, April 2014; Justin E. Kolber, assistant attorney general, letter to Marsha Jones, April 2014, [http://ago.vermont.gov/assets/files/Consumer/Illegal\\_Lending/Letter%20to%20TPPPA%20April%202014.pdf](http://ago.vermont.gov/assets/files/Consumer/Illegal_Lending/Letter%20to%20TPPPA%20April%202014.pdf).
- 94 "Court Order Restricts Online Payday Lender," Arkansas Office of the Attorney General, last modified Aug. 21, 2012, [http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news\\_id=579](http://ag.arkansas.gov/newsroom/index.php?do:newsDetail=1&news_id=579). For example, before it stopped operating, Western Sky Loans stated that it did not make loans to residents of California, Colorado, Maryland, Missouri, South Dakota, or West Virginia. Cash Fairy's website states that it does not make loans to residents of Arkansas, Montana, or West Virginia. Lendgreen's website states that it does not make loans to residents of 20 states or the District of Columbia. State attorneys general have in many cases reached agreements with specific online payday lenders not to make loans to residents of their states.
- 95 Quik Payday Inc. v. Stork, 549 F. 3d 1302 (10th Cir. 2008). The court upheld states' rights to require out-of-state lenders to obtain state licenses, ruling that obtaining licenses in states where a lender offers loans "does not impose an undue burden."
- 96 Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services, U.S. Dist., LEXIS 144656, 2013 WL 5460185 (S.D.N.Y. 2013). The court stated "The undisputed facts demonstrate that the activity the State seeks to regulate is taking place in New York, off of the Tribes' lands. Having identified no 'express federal law' prohibiting the State's regulation of payday loans made to New York residents in New York, the Tribes are subject to the State's non-discriminatory anti-usury laws."

- 97 *The People of the State of California v. Miami Nation Enterprises et al.*, No. B242644 (Cal. App. 2d 2014).
- 98 Dollar Financial Corp., Form 10-K, fiscal year ending June 30, 2008, <https://www.sec.gov/Archives/edgar/data/1271625/000089322008002500/w66715e10vk.htm>. For example, DFC Global partnered with First Bank of Delaware in 2006 to offer CustomCash, an installment loan. The bank reviewed and funded the loans, and DFC earned a fee for servicing them. After the FDIC's 2006 guidelines on partnerships between banks and payday lenders, the bank stopped offering the loans through third-party retailers in Pennsylvania in April 2007 and instead offered them only through its own branches and online. DFC has continued to offer the CustomCash loan in other U.S. locations.
- 99 "Attorney General Cuomo Announces Distribution Of \$5.2 Million Settlement In 'Rent-a-Bank' Payday Lending Scheme," New York State Office of the Attorney General, last modified Nov. 17, 2009, <http://www.ag.ny.gov/press-release/attorney-general-cuomo-announces-distribution-52-million-settlement-rent-bank-payday>. There have been occasional instances of banks facilitating payday loans that do not comply with state law despite the clear guidance from federal regulators. For example, payday lenders Telecash and CRA Services partnered with County Bank in Delaware to avoid New York's civil usury rate cap of 16 percent, but pursuant to action from the New York attorney general in 2009, the lenders agreed to pay \$5.2 million in restitution in addition to other penalties and costs.
- 100 "Agreement By and Between Urban Trust Bank, Lake Mary, Florida, and the Comptroller of the Currency," Office of the Comptroller of the Currency, last modified July 25, 2012, <http://www.occ.gov/static/enforcement-actions/ea2012-190.pdf>; "Urban Trust Bank Streamlines Prepaid Card Features," Urban Trust Bank, last modified Jan. 13, 2013, <http://www.urbantrustbank.com/custom/fi/urbantrustbank/fb/disclosure/InsightJanuary2013PressRelease.pdf>.
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