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United States Senate

SPECIAL COMMITTEE ON AGING

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May 21, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency (OCC)
400 7th St. SW, Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219

RE: Guidance on Deposit Advance Products (Docket ID OCC-2013-0005)

To the Legislative and Regulatory Activities Division,

As Chairman and member of the Senate Special Committee on Aging, we take very seriously our responsibilities to seniors and elderly consumers who expect and deserve fair and transparent financial services. We write today in support of the proposed guidance on deposit advance products, which exhibit many of the same features as traditional payday loans, without any of the consumer protections that several states have imposed to ensure consumers are not trapped in cycles of debt.

The Committee has been investigating these products and has been disturbed to learn that many banks seem to be doing the bare minimum to prevent customers from becoming dependent on deposit advances. As stated in Docket ID OCC-2013-0005, many banks only impose a “cooling-off” period after six months of consecutive monthly deposit advance usage. And in several cases, the “cooling-off” period can be easily circumvented by borrowing less than the monthly loan limit. A recent study by the Center for Responsible Lending (CRL) found that most deposit advance customers take out more than eleven loans a year.

CRL also found that over a quarter of deposit advance customers are Social Security recipients, and for these consumers, the bank in question is using their Social Security check as proof of income. Social Security was created to provide seniors with financial support to help them cover basic living expenses, not for banks seeking new sources of revenue by exploiting retirees with limited means. Therefore, it is critical that banks be discouraged from using government benefits as proof of income, and we would hope such a provision would be included in the final guidance.

Additionally, we strongly believe in consumer choice and think that consumers must fully understand the financial products they are using. Currently, banks only advertise these products on a fee basis. However, other payday lenders are required to list the cost as an annual percentage rate (APR). Therefore, we would encourage your agency to incorporate a provision in

the final guidance that requires all lenders in this market to list their fees as an APR so customers can have a full understanding of the cost of the transaction.

Still, we believe the proposed guidance is a productive start in restoring safety and soundness in the banking system. Left unchecked, deposit advances pose a significant credit risk to the banking system, particularly if offered by an increasing number of banks. In the aftermath of a debilitating financial crisis and the ensuing economic recession, it is critical that banks maintain high quality underwriting standards for all types of loans, including deposit advances.

For these reasons, we support strong underwriting standards and consumer protections in the forthcoming final guidance on deposit advance products. I urge the agency to—at minimum—maintain the safeguards currently included in the proposed guidance.

Sincerely,



Bill Nelson
Chairman



Elizabeth Warren
U.S. Senator