LAW & ECONOMICS CENTER

Financial Services Regulation & Technology Webinar

Consumer Debt in America: What Would Rate Caps and Student Loan Forgiveness Mean?

Thomas P. Vartanian
Ashley Harrington
Karen Thomas
Todd J. Zywicki

Monday, November 18, 2019

Panel

- **Thomas P. Vartanian**, Executive Director, Program on Financial Regulation & Technology
- **Ashley Harrington,** Senior Policy Counsel, Center for Responsible Lending
- **Karen Thomas,** Senior Executive Vice President, Government Relations & Public Policy, Independent Community Bankers of America
- **Todd J. Zywicki,** GMU Foundation Professor of Law, George Mason University Antonin Scalia Law School

Thomas P. Vartanian, Executive Director, Program on Financial Regulation & Technology

- Professor, George Mason University Antonin Scalia Law School
- Formerly, Chair, Financial Institutions Practices, Dechert LLP and Fried, Frank, Harris, Shriver & Jacobson
- Formerly, General Counsel, Federal Home Loan Bank Board and General Counsel, Federal Savings and Loan Insurance Corporation
- Formerly, Chair, American Bar Association Cyberspace Law Committee

Ashley Harrington, Senior Policy Counsel, Center for Responsible Lending

LAW & ECONOMICS CENTER

- Formerly, Director of the National Social Justice program and member of Public Policy and Government Affairs Team at the United Negro College Fund

- Formerly, CRL's special assistant to the president and policy counsel. She assumed a lead role in federal advocacy efforts and was a primary negotiator for the Department of Education's 2017 – 2018 Borrower Defense to Repayment Rulemaking Committee

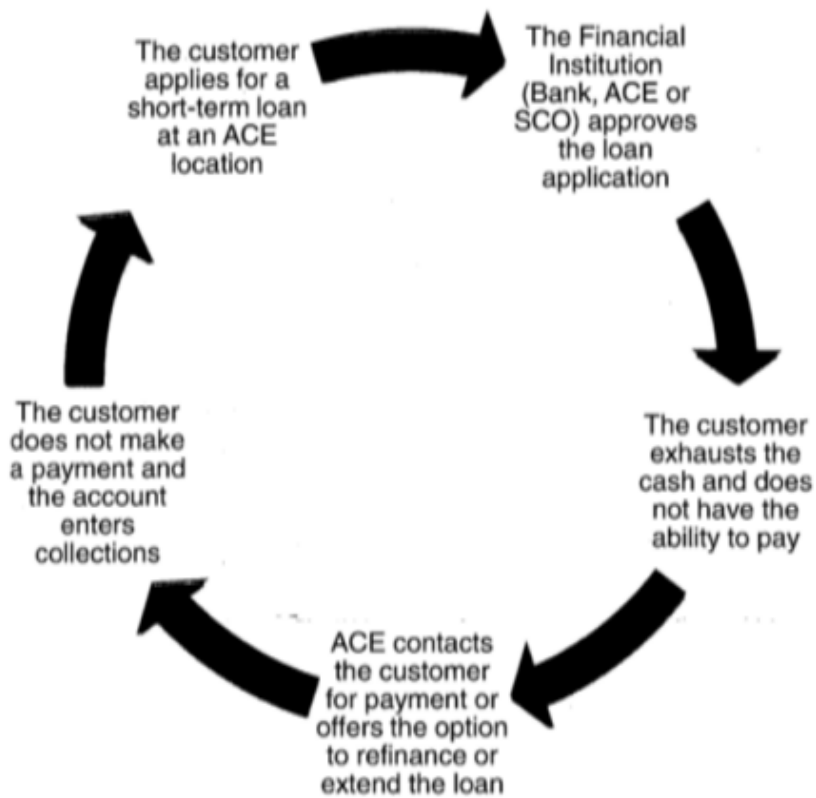
- Formerly, Special Assistant to the chief diversity officer in the Office of Governor Andrew Cuomo, focusing on supplier diversity in government contracting and state workforce diversity

The Need for a 36% Interest Rate Cap

Ashley Harrington
Center for Responsible Lending

Repeat borrowing at high rates is the payday lending business model

LAW & ECONOMICS CENTER



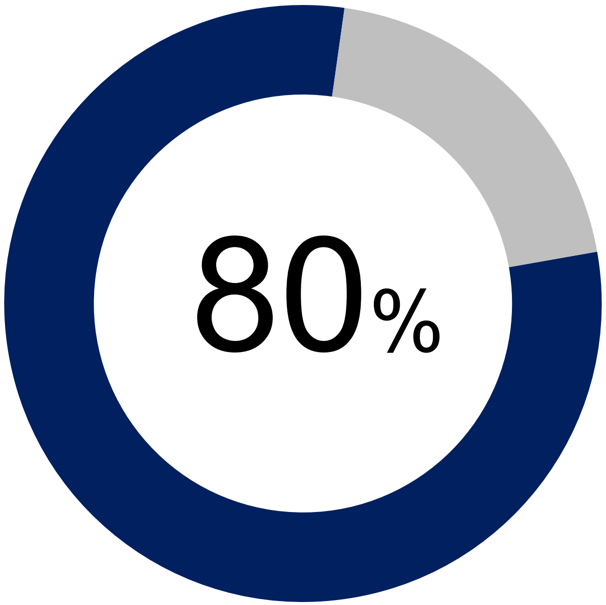
391% interest on average

$4.1 billion in fees drained by payday lenders every year

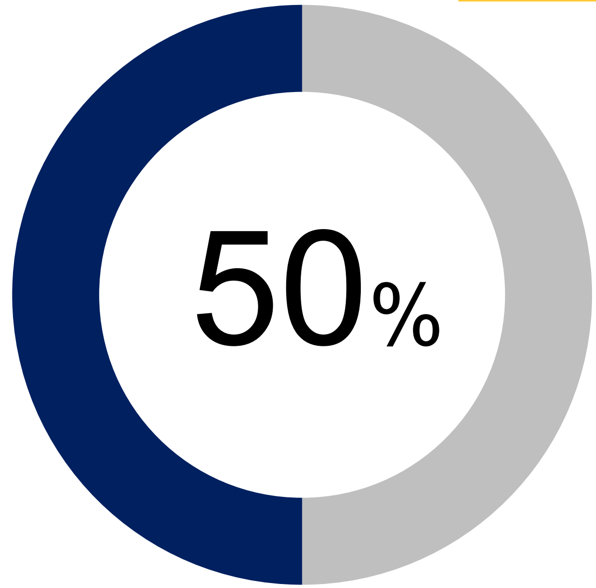
Source: CFPB Takes Action Against ACE Cash Express for Pushing Payday Borrowers Into Cycle of Debt (April 2014)

Repeat borrowing at high rates is the payday lending business model

LAW & ECONOMICS CENTER



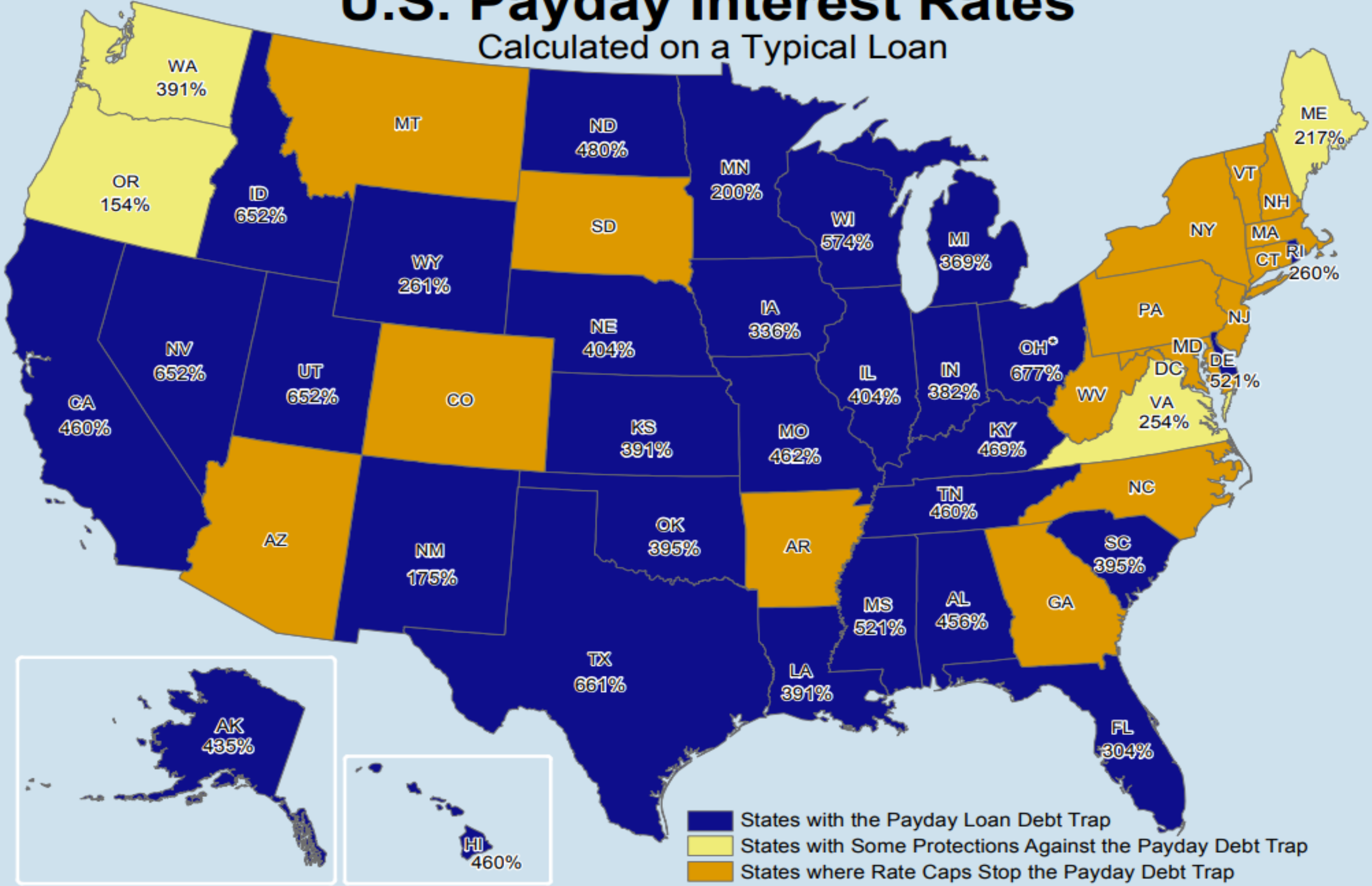
Of loans are followed by another loan in the next 14 days



Of loans are part of a series of 10 or more loans

U.S. Payday Interest Rates

Calculated on a Typical Loan



*New Ohio payday loan law changes go into effect in April 2019. This analysis reflects the law currently in place. For more info, see https://bit.ly/2MQzWW5.

Center for Responsible Lending 2019. Typical APR based on average rate for a $300 loan advertised by largest payday chains or as determined by state regulator, where applicable.

36% Rate Cap: History, Use, and Purpose

LAW & ECONOMICS CENTER

Why 36%?

- Well-recognized history dating back 100 years
- Military Lending Act
- Rate for small loans results in payments that consumers have a chance to pay
- Gives lenders an incentive to offer longer term loans with more affordable structure
- Lenders avoid making loans that borrowers cannot afford to repay
- Has been reaffirmed repeatedly at the state and federal level in recent years

Veterans and Consumers Fair Credit Act

In 2006, Congress passed the Military Lending Act (MLA) to rein in payday lenders and other lenders that targeted American troops for abusive and predatory lending practices.

Centerpiece of bipartisan legislation was a 36% cap on Annual Percentage Rate on loans to active-duty service members and their families.

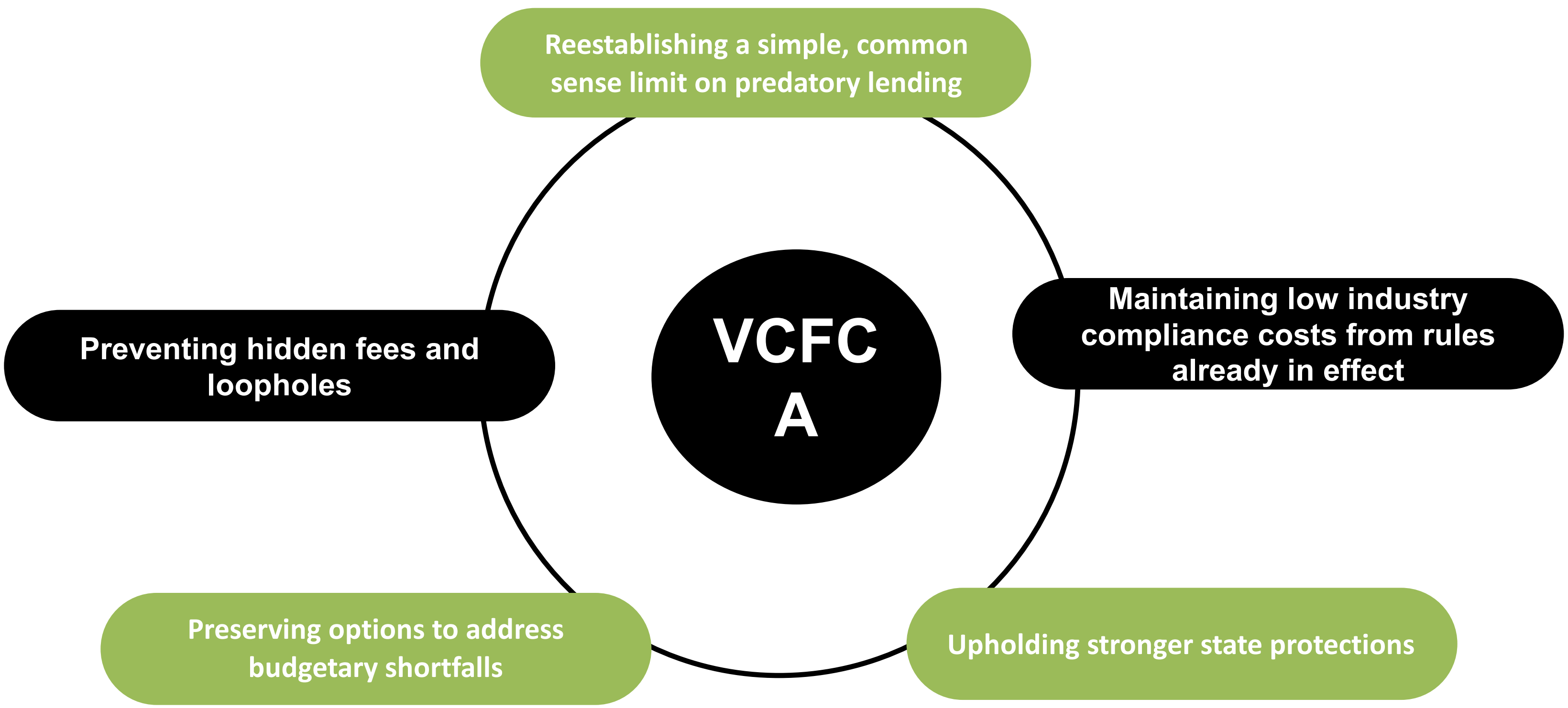
MLA does not protect veterans, Gold Star families, or other Americans from abusive predatory lending.

The Veterans and Consumers Fair Credit Act (VCFCA) builds on these successes and extends protections to veterans, surviving family members, and all consumers.

The VCFCA amends the Truth in Lending Act (TILA) to apply to MLA's 36% APR cap to all consumers.

The Veterans and Consumers Fair Credit Act

LAW & ECONOMICS CENTER



Karen Thomas, Senior Executive Vice President, Government Relations & Public Policy, Independent Community Bankers of America

LAW & ECONOMICS CENTER

- Karen M. Thomas works with other members of ICBA's executive management team to shape the association's policy strategy and advance the interests of more than 5,000 community banks of all sizes and charter types throughout the United States.

- Formerly, Partner at Dann & Thomas, a Washington, D.C. law firm she co-founded.

Karen Thomas, Senior Executive Vice President, Government Relations & Public Policy, Independent Community Bankers of America

LAW & ECONOMICS CENTER

Interest Rate Caps on Consumer Debt

- Consequences: decrease access to credit; lower limits; increase costs for low- and moderate-income consumers
- Economics/math of making small dollar loans; community banks as small dollar consumer lenders
- "Affordable" small dollar loans outlawed; $500, 90-day loan, 12% simple interest rate, $30 administrative fee = 37% annual percentage
- Reduction in legitimate providers; increase in illegal, high cost providers
- CFPB small dollar loan rule: accommodations for community banks

Todd J. Zywicki, GMU Foundation Professor of Law, George Mason University Antonin Scalia Law School

LAW & ECONOMICS CENTER

- Senior Fellow of the Cato Institute
- Formerly, Executive Director of the GMU Law & Economics Center
- Formerly, Chair of the Association of American Law Schools Section on Law & Economics in 2019
- Formerly, Co-Editor of the Supreme Court Economic Review from 2006-2017 and Editor from 2001-2002
- Formerly, Director of the Office of Policy Planning at the Federal Trade Commission from 2003 to 2004
- Formerly, Senior Scholar of the Mercatus Center at George Mason University

Addressing the Student Debt Crisis

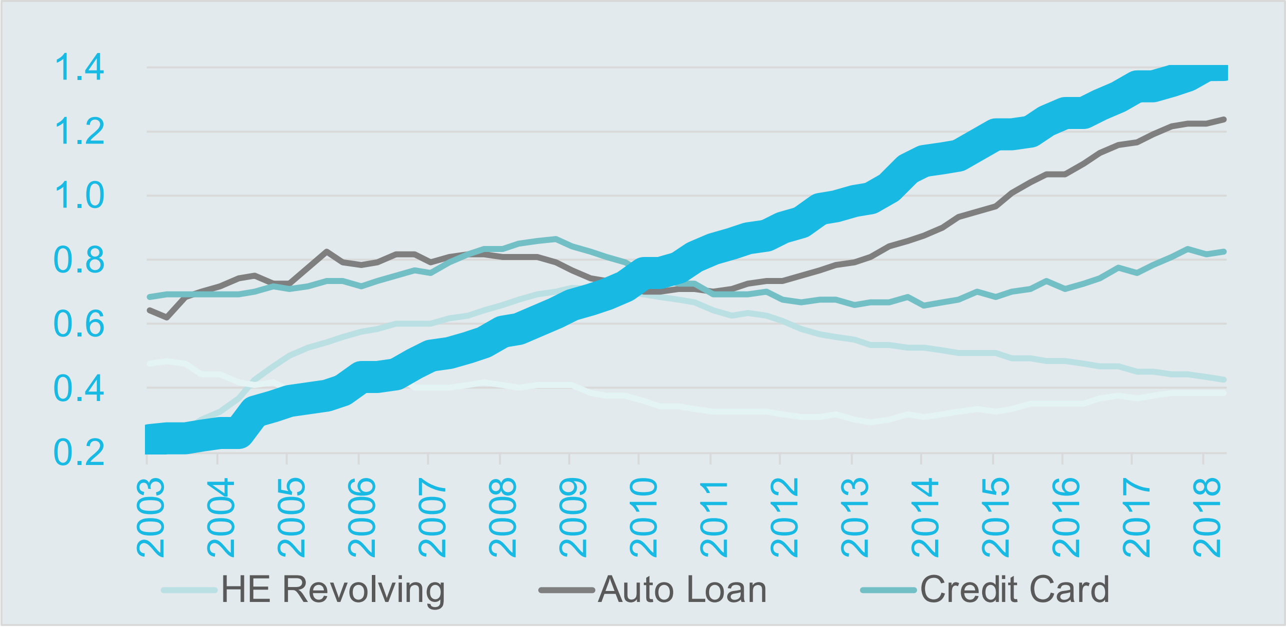
Ashley Harrington
Center for Responsible Lending

The Student Debt Crisis

LAW & ECONOMICS CENTER

- Outstanding student loan debt = **$1.5 trillion**.
- **55%** of U.S. undergrads who borrowed unable to pay down any debt for first three years.
- **44 million** Americans have at least one federal student loan, up from 28 million in 2007 (Bipartisan Policy Center, 2007).
- Approximately 90% of student loan debt is held by the federal government, and the remaining 10% of loans are privately held.
- **In 2016, almost 70% of graduating seniors borrowed to cover the cost of college, at an average amount of almost $30,000.**
- Native Hawaiians and other Pacific Islanders borrow in almost 90% of cases, and African American graduates borrow in 85% of cases.
- **Student debt is exacerbating the racial wealth gap.**
- Student debt is preventing a generation of consumers from buying homes, saving for retirement and starting businesses.

Student loan outstanding debt now tops 1.5 trillion in 2019:



Source: New York Fed Consumer Credit Panel/Equifax

Three Key Drivers of the Crisis

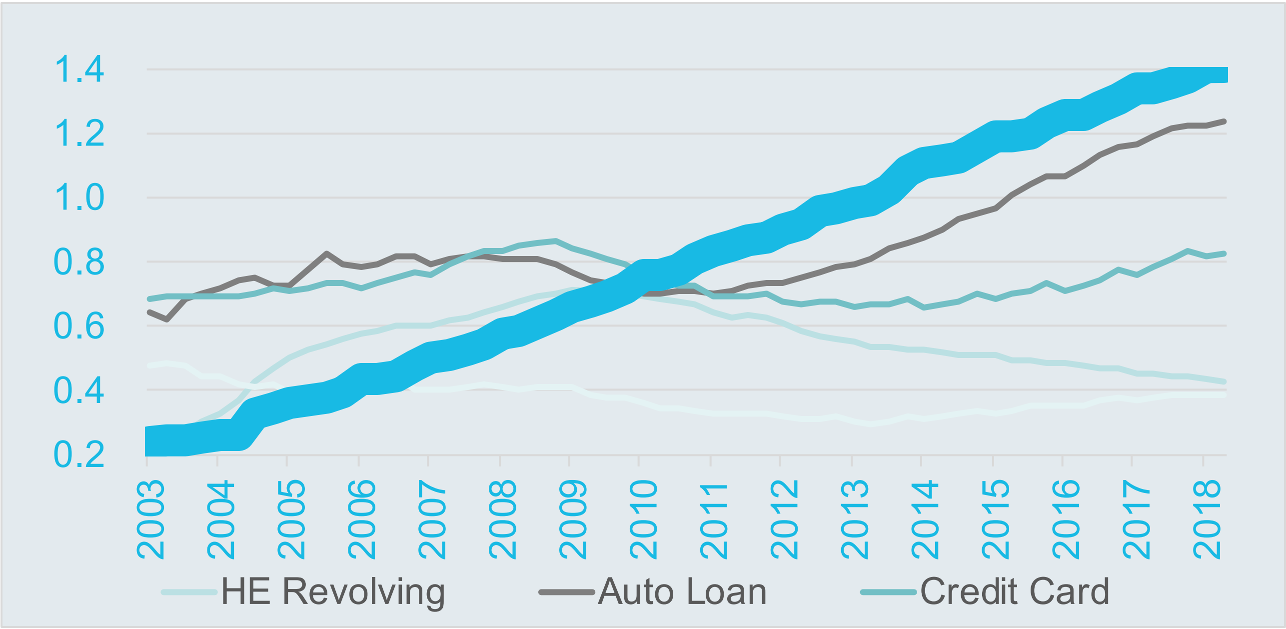
- **More students are taking out loans**
  - Enrollment growth (3 million students between 2006-2016, with particularly strong growth in for-profit enrollment in the first 5 years)
  - Expanded eligibility for Federal Loans
  - Shift from grant to loan aid at Federal, State and Institutional Levels
- **Loans are for larger amounts**
  - Rising tuition and fees
  - Longer times to completion
  - Reductions in per-capita state funding at publics
- **Students are making less progress repaying**
  - Higher balances more burdensome
  - Higher default (although stabilized since 2013)
  - Income-based repayment may be contributing, although also shown to lower default

The Default Problem

- Today, two in five borrowers are in default or delinquent, and many borrowers are not reducing their principal even after almost a decade of repayment.
- **Almost one in four (23%)** of student loan borrowers still owe more than half of their original loan balance after eight years in repayment.
- More than 6% of borrowers owe more than 90% of their original loan balance after eight years of repayment.
- **27% of borrowers of all races and ethnicities who entered higher education in 2003–2004 as undergraduates had defaulted on their student loans by 2016. Up to 40% of this cohort are projected to default by 2024**.
- Approximately 7.3 million borrowers were in default by March 2019 and almost 10% of outstanding student debt ($145 billion) was in default.
- **Estimates suggest that almost 90% of the defaulters are Pell Grant recipients and that the median amount owed is less than $10,000.**
- Nearly half of Black bachelor's degree holders owe more on their undergraduate student loans after four years than they did at graduation, compared to 17% of white graduates and approximately 23% of Latinos.

Student loan outstanding debt now tops 1.5 trillion in 2019:

LAW & ECONOMICS CENTER



Source: New York Fed Consumer Credit Panel/Equifax

Student Debt Cancellation Options

LAW & ECONOMICS CENTER

- Forgive all federal student loan debt
- Forgive up to a set dollar amount for all students
- Forgive debt held by former Pell recipients
- Reform IDR to tackle interest growth and provide quicker paths to forgiveness
- Provide interim principle forgiveness on IDR
- Allow refinancing

The impact of limited student debt cancellation

Even $10,000 in student loan cancellation could have profound impacts:

- 29 million borrowers currently in repayment on their federal loans would experience substantial relief.
- 40% of all borrowers in repayment would experience complete student loan cancellation.
- 61% of borrowers in default would experience complete cancellation.
- Significant positive economic benefits in the form of increased GDP through increased household consumption and investment.
- Other social benefits including increased family formation and stability, ability to pursue additional training, improved health, increased entrepreneurial activity, and more.

Other policy solutions

- Make student debt dischargeable in bankruptcy
- Simplify and improve income-based repayment
  - Shorten term from 20 years to 15 years
  - Protect income under 250% of the poverty level, compared to 150% under the current REPAYE plan
  - Calculate payments based on 8% of discretionary income rather than 10%

Karen Thomas, Senior Executive Vice President, Government Relations & Public Policy, Independent Community Bankers of America

LAW & ECONOMICS CENTER

Student Loan Debt

Forgiveness:

- Less than 10% of student loan debt is held by banks; 92% is owned by the federal government.
- Will student loan debt forgiveness address the factors that led to skyrocketing college costs?
- What role did the federal government play in contributing to the situation?
- Should high income earners, or children of high-income earners, also be eligible for forgiveness/free college?
- Are the proposed measures to fund debt forgiveness and free college for all appropriate?
- Alternative targeted approaches.

Discharge in Bankruptcy

- Addressing unintended consequences.

Panel

LAW & ECONOMICS CENTER

- **Thomas P. Vartanian**, Executive Director, Program on Financial Regulation & Technology
- **Ashley Harrington,** Senior Policy Counsel, Center for Responsible Lending
- **Karen Thomas,** Senior Executive Vice President, Government Relations & Public Policy, Independent Community Bankers of America
- **Todd J. Zywicki,** GMU Foundation Professor of Law, George Mason University Antonin Scalia Law School

LAW & ECONOMICS CENTER

QUESTIONS?

GEORGE MASON UNIVERSITY ANTONIN SCALIA LAW SCHOOL

LAW & ECONOMICS CENTER

PROGRAM ON FINANICAL REGULATION & TECHNOLOGY