June 6, 2023

Hon. Andy Barr, Chairman
Subcommittee on Financial Institutions and Monetary Policy
House Committee on Financial Services
2430 Rayburn House Office Building
Washington, DC. 20515

Hon. Bill Foster, Ranking Member
Subcommittee on Financial Institutions and Monetary Policy
House Committee on Financial Services
2430 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barr and Ranking Member Foster,

On behalf of the Center for Responsible Lending, we thank you for the opportunity to submit this letter for the record on the House Committee on Financial Services' Subcommittee on Financial Institutions and Monetary Policy hearing entitled, "Uncertain Debt Management: Treasury Markets and Financial Institutions."

The Center for Responsible Lending (CRL) is a non-partisan, nonprofit research and policy advocacy organization working to promote financial fairness and economic opportunity for all, end predatory lending, and close the racial wealth gaps. We strongly believe many of the reforms being considered today will harm consumers and the financial markets. These misguided approaches will place every American taxpayer at risk by increasing the likelihood that our nation's economy may suffer yet another financial crisis.

There are two proposals that are especially concerning. The first increases the asset thresholds at which financial institutions become subject to regulatory oversight. There are more than 4,000 banks in the United States, and this legislative draft would exempt all but 50 from having to comply with regulations and oversight from the Consumer Financial Protection Bureau (CFPB). This logic is akin to exempting all airlines other than American and Delta from the supervision and regulations that ensure planes are safe to fly.

It is imperative that we remember why the Consumer Financial Protection Bureau (CFPB) was created. Congress created the Bureau in the wake of a national outcry over the many failures in supervision, regulatory compliance, and enforcement exposed by the 2008-2010 financial crisis and the ensuing Great Recession. We cannot forget the lessons memorialized by the Congressionally mandated Financial Crisis Inquiry Commission, whose final report stated that the primary cause of the crisis was the absence of government regulation of the financial industry.

A handful of federal regulators had unclear and confused jurisdictions, while their consumer protection divisions were shrunk in size and moved to the proverbial basement offices of those agencies. Federal regulators also at times acted to preempt and prevent states from protecting consumers. Simply put, it was clear that the financial market and its federal supervision needed reform, and consumers had no advocate.

Congress responded by consolidating the consumer protection functions of those agencies into a single entity and giving the newly created Bureau an independent funding mechanism just like the other prudential financial regulators. The Office of the Comptroller of the Currency has operated with an independent funding mechanism for 160 years.

In just two years, the Great Recession wiped away $15 trillion in net worth for U.S. households. In a four-year span, the Federal Deposit Insurance Corporation (FDIC) was forced to close 465 failed banks. Over eight million families lost their homes to foreclosure and, as millions more felt the economic effects of the ensuing recession, many asked themselves –who is looking out for the average, American consumer?

The Financial Crisis Inquiry Commission highlighted its concern with "… the extent to which the nation was deprived of the necessary strength and independence of the oversight necessary to safeguard financial stability."

The Commission described how three decades of deregulatory policies had " … opened up gaps in oversight of critical areas with trillions of dollars at risk, such as the shadow banking system and over-the-counter derivatives markets. In addition, the government permitted financial firms to pick their preferred regulators in what became a race to the weakest supervisor."

Another major contributing factor was the rapid rise in shadow banking, which had grown to rival the depository banking system but was not under the same scrutiny or regulation. When the shadow banking system failed, the collapse impacted the flow of credit to consumers and businesses.

Much of the pushback we're seeing today against the CFPB is due to its efforts to regulate these dark corners of the marketplace and the rapid rise of financial services provided by non-bank entities.

Along those same lines, we are concerned with another legislative proposal that seeks to make the Federal Reserve subject to appropriations. This is yet another effort to inject partisanship into the basic governance and enforcement of our banking laws. The International Monetary Fund and World Bank learned from the Great Recession and warned how "political interference in financial sector regulation and supervision contributed to the depth and magnitude of nearly all of the financial crises of the past decade." These entities – at the urging of the United States – advised world governments to find ways to insulate financial regulators and supervisors from political influence. These legislative proposals accomplish the exact opposite.

As we all know, the Supreme Court has agreed to hear *CFPB v CFSA*, which will determine the constitutionality of the Bureau's funding structure. Until then, the Bureau's governance structure, oversight responsibilities and funding should remain exactly as they have been since its inception, with no modifications. Doing otherwise would harm consumers and the industry.

Weakening the CFPB is bad for lenders. The Bureau has created concrete standards like the qualified mortgage safe harbor to the ability-to-repay rule and established small creditor exemptions to reporting and disclosure requirements when necessary. The Bureau has leveled the playing field between the big banks, community institutions, CDFIs, and non-depository actors. Conversely, these legislative proposals once again put a substantial amount of our banking activity out of reach from our financial regulators.

Undoubtedly, the CFPB has established clear rules of the road and has created certainty for marketplace participants. Without this stability, lenders would be left exposed to unacceptable risk and hamstrung in their ability to provide capital.

Simply said, the CFPB is badly needed. The proof is in the results. Since it was created, the CFPB has helped nearly 200 million consumers receive over $16 billion in relief and issued $3.7 billion in civil penalties. Those penalties also go to consumers – even if the company that defrauded them has vanished.

One example of the extent CFPB's efforts support American families is enforcement of the Military Lending Act (MLA), which protects the military community from predatory financial practices, including by limiting loan interest rates to 36% APR. MLA covers different types of credit for active duty servicemembers and their dependents: payday loans, vehicle title loans, tax refund anticipation loans, installment loans, and more.

Prior to the MLA servicemembers and their families were victims of egregious triple-digit rates while using open-end lines of credit, personal and installment loans, and car title loans. It is because of the CFPB's enforcement of the MLA that servicemembers and their families are protected from the known harms of predatory high-interest-rate loans.

The exemption being proposed would free all but 50 banks from being supervised for compliance with these protections for servicemembers and their families – not to mention the myriad other protections.

Republican polling firm Chesapeake Beach Consulting and Democratic firm Lake Research Partners have shown that 79 percent of voters across the political spectrum – including 64 percent of independents and 75 percent of Republicans – support the mission of the CFPB to regulate the financial industry and protect consumers. These new findings are consistent with over a decade of opinion research showing that voters believe financial companies, while serving an important role, need more regulation.

Americans strongly support the agency's role in providing protections aimed at new types of financial products. They want the CFPB to protect consumers from excessive fees, abusive high-cost lenders, and discrimination in all areas of consumer finance, not just lending. There is wide agreement that the CFPB is essential to the proper function of our economy. The Bureau curbs worst practices, punishes repeat offenders, and creates a stable regulatory environment. Inversely, those who stand to benefit from neutering the CFPB peddle in worst practices, break the law repeatedly, and seek to exploit an inconsistent regulatory environment with unsafe products and services.

Mr. Chairman, we urge you to consider the consequences of many of these proposals and put aside any further discussion on exempting financial institutions from being subject to regulatory oversight.

Thank you again for the opportunity to present these thoughts for the hearing record.

Sincerely,

The Center for Responsible Lending

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