



Americans for Financial Reform
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July 28, 2015

Dear Representative,

We are writing in opposition to HR 1941, the “Financial Institutions Examination Fairness and Reform Act”. This legislation would impose a cumbersome de novo appeals and review process on bank examiners, a process that would create numerous opportunities for banks to delay and derail changes that supervisors had found necessary to protect consumers and the public. This process is likely to greatly reduce the speed and effectiveness of bank supervision at both prudential regulators and the Consumer Financial Protection Bureau.

The reach of HR 1941 is not limited to community banks. It would negatively impact regulatory oversight across the financial system, including at the largest Wall Street banks, and would affect both consumer protections and regulation of bank safety and soundness. Excessive deference by the regulators to the financial institutions they are charged with overseeing was a pervasive problem prior to the financial crisis. Many Dodd Frank changes were designed to help regulators do a more effective job of protecting the public interest. This legislation would make that job more difficult, and would send the dangerous message that more, rather than less, deference to big banks is appropriate.

In addition to the new appeals process, Section 3 of the bill would greatly restrict the ability of bank examiners to use independent judgment in addressing risks to bank safety and soundness that emerge from commercial real estate loans. Unlike residential mortgages, commercial real estate loans are often structured to require periodic balloon payments, which are much larger than the payments made in other periods. Borrowers must generally roll over their loan to make the balloon payment. This means that the current payments may not be a good guide as to whether a commercial real estate borrower will be able to pay in the future. This is especially true when collateral value has declined.

Section 3 would essentially ban examiners from exercising independent judgment regarding when such a future default is likely. This would prevent bank examiners from requiring prudent advance action to protect insured deposits and the stability of financial institutions. We should not make it easier for banks with government-insured deposits to take risky gambles where the bank receives any upside but taxpayers would end up paying for the downside losses if the loan went bad.

Sections 4 and 5 of the legislation would add an entirely new outside appeals process to the existing agency appeals processes for bank examiner decisions. This cumbersome process would greatly lengthen the period before a bank had to take action on a potentially urgent supervisory finding, and would lead to extensive second guessing of agency decisions by outside parties.

Regulated banks would have the right to appeal any supervisory determination made by any prudential banking agency or by the Consumer Financial Protection Bureau to a new “Office of Independent Examination Review”, which would have to undertake a de novo review of the agency’s decision. No deference to the initial examination findings or the agency’s judgment would be required in this review.

This new appeals process is an addition to formal appeals processes and ombudsmen already present at the banking agencies. The agencies affected by this legislation – including the CFPB, FDIC, OCC, and Federal Reserve – each already have an agency ombudsman and an intra-agency formal review and appeals process. In addition, banks may bring a court challenge to any formal regulatory enforcement action. By layering an entirely new formal appeals process on top of this existing process, this legislation would multiply red tape and delays in supervisory decisions. This effect would be most pronounced at the largest banks, who could appeal dozens or hundreds of findings from every examination, creating major roadblocks to supervisory effectiveness.

Taken together, the changes in this legislation would harm the capacity of bank supervisors to provide oversight to banking institutions in areas ranging from basic prudential oversight to protect taxpayer-insured deposits to key consumer protections that make our financial markets fairer. The changes here would undermine the supervisory process and affect every bank regulatory agency from the Consumer Financial Protection Bureau to the Federal Reserve. Since there are no bank size limits in the bill, the deregulatory changes it makes would affect every bank in the country.

The record from the past few decades – both the extremely costly Savings and Loan crisis of the 1980s and the disastrous financial crisis of 2008 -- could not be clearer. Excessive deference to the financial industry by the regulators has been a major enabler of the reckless, irresponsible, and sometimes fraudulent actions that did so much damage to our economy and exposed taxpayers to tremendous losses. HR 1941 would tilt the playing field further in the direction of excessive deference to industry interests and tie the hands of regulators attempting to protect the public interest. It should be rejected.

Thank you for the opportunity to express our views on this legislation. Should you have additional questions on this issue, please contact Marcus Stanley, AFR’s Policy Director, at marcus@ourfinancialsecurity.org or 202-466-3672.

Sincerely,

Americans for Financial Reform

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- AARP
- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Center for Effective Government
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Green America
- Greenlining Institute
- Good Business International

- Government Accountability Project
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defenders League
- Information Press
- Institute for Agriculture and Trade Policy
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- Next Step
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development

- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Partners

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)

- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN
- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- New Economy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network

- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- UNET

