

Statement for the Record

On Behalf of

Americans For Financial Reform

to the

**House Financial Services Committee Hearing On
"The Semi-Annual Report of the Bureau of Consumer Financial Protection"**

Thursday, June 13, 2024

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Americans for Financial Reform appreciates the opportunity to provide a Statement for the Record for the House Financial Services Committee Hearing on “The Semi-Annual Report of the Bureau of Consumer Financial Protection.” AFR is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, we are working to lay the foundation for a strong, stable, and ethical financial system – one that serves the economy and the nation as a whole. We are committed to eliminating the inequity and systemic racism in the financial system and fighting for a just and sustainable economy.

In the thirteen years since its creation, the Consumer Financial Protection Bureau has and continues to vigorously protect consumers, increase marketplace transparency, and end unfair business practices through impactful rulemakings and enforcement actions. In May, the Supreme Court resoundingly reaffirmed the constitutionality of the Bureau’s funding mechanism in *CFPB v. Community Financial Services Association*, removing a major barrier to the agency’s critical work protecting consumers, ending predatory and abusive practices in the financial sector, and holding companies and individuals accountable when federal financial laws are broken.

The Bureau’s enforcement and supervisory work has helped more than 205 million consumers access justice through \$20.7 billion in monetary compensation, principal reductions, and canceled debts.¹ In 2023 alone, the Bureau held lawbreaking institutions accountable, helping customers get restitution when they were hurt or defrauded, including:

- **\$3.07 billion returned back to consumers**, across 29 enforcement actions, and \$498 million collected in civil money penalties.²
- **\$100 million returned back to Bank of America customers** for charging illegal fees, withholding credit card rewards, and opening fake accounts.³

¹ <https://www.consumerfinance.gov/>

² Consumer Financial Protection Bureau, “The CFPB’s Enforcement Work in 2023 and What Lies Ahead”, <https://www.consumerfinance.gov/about-us/blog/the-cfpbs-enforcement-work-in-2023-and-what-lies-ahead/#:~:text=In%202023%2C%20the%20CFPB%20filed,million%20in%20civil%20money%20penalties/>.

³ Consumer Financial Protection Bureau, “CFPB Takes Action Against Bank of America for Illegally Charging Junk Fees, Withholding Credit Card Rewards, and Opening Fake Accounts”, <https://www.consumerfinance.gov/about-us/newsroom/bank-of-america-for-illegally-charging-junk-fees-withholding-credit-card-rewards-opening-fake-accounts/>.

- **\$5 million returned back to servicemembers** for Military Lending Act violations and illegal activities committed by TitleMax.⁴
- **\$1.4 million returned back to Citibank customers** for illegal discrimination. Citi was also ordered to pay \$24.5 million in fines for illegally discriminating against credit card applications the bank had identified as Armenian American.⁵

To aid future enforcement efforts, the Bureau recently finalized rulemaking to create a repeat offender registry for nonbanks,⁶ helping local, state, and federal regulators, as well as the public, more easily track repeat offenders subject to law enforcement orders across multiple jurisdictions and agencies in one centralized location.

In addition to helping millions of consumers access justice when institutions break the law, the Bureau is working to end junk fees that currently gouge billions of dollars a year from U.S. households. The CFPB finalized a rulemaking to close a legal loophole that cost consumers nearly \$20 billion annually in credit card late fees, and proposed a rulemaking on overdraft fees.⁷ The credit card late fees rule, finalized in March, is expected to save families \$10 billion annually, including \$220 annually for more than 45 million consumers.⁸ The proposed overdraft fee rule is estimated to save 23 million households \$150 yearly in overdraft fees.⁹ Already, the Bureau's focus on overdraft fee abuses has resulted in dozens of banks

⁴ Consumer Financial Protection Bureau, "CFPB Orders TitleMax to Pay a \$10 Million Penalty for Unlawful Title Loans and Overcharging Military Families", <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-titlemax-to-pay-a-10-million-penalty-for-unlawful-title-loans-and-overcharging-military-families/>.

⁵ Consumer Financial Protection Bureau, "CFPB Orders Citi to Pay \$25.9 Million for Intentional Illegal Discrimination Against Armenian Americans", <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-citi-to-pay-25-9-million-for-intentional-illegal-discrimination-against-armenian-americans/>.

⁶ Consumer Financial Protection Bureau, "CFPB Creates Registry to Detect Corporate Repeat Offenders", <https://www.consumerfinance.gov/about-us/newsroom/cfpb-creates-registry-to-detect-corporate-repeat-offenders/>.

⁷ "Statement from President Joe Biden on the Supreme Court Ruling on Consumer Financial Protection Bureau," White House Briefing Room Statements & Releases, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/16/statement-from-president-joe-biden-on-the-supreme-court-ruling-on-consumer-financial-protection-bureau/#:~:text=Under%20my%20Administration%2C%20the%20CFPB,fees%2C%20and%20other%20junk%20fees>

⁸ Overdraft Credit: Very Large Financial Institutions, 89 Fed. Reg. 13852, <https://www.govinfo.gov/content/pkg/FR-2024-02-23/pdf/2024-01095.pdf>.

⁹ *Id.* at 13868. Overdraft junk fees are regulated by the Truth in Lending Act's Reg DD and Reg E and exempt from Reg Z's disclosure requirements and consumer protections. The proposed overdraft junk fees rule would update the definition of "finance charges" under Reg Z to include overdraft charges imposed by a financial institution. Overdraft accessible by card would also be subject to the CARD Act provisions of Reg Z.

voluntarily lowering their overdraft fees, including Bank of America, Wells Fargo, and, most recently, PNC Bank, saving consumers at least \$3.5 billion annually.¹⁰

The Bureau continues to work towards improving the fairness and accuracy of the credit reporting industry, recently proposing a rule to eliminate medical debts from credit reports. Medical debts are not a good predictor of general creditworthiness, are often inaccurate, and their inclusion on credit reports effectively punishes people for health problems, lack of wealth, and adequate insurance. Medical debts on credit reports can also be a tool in abusive collection practices around disputed debts.

While the big three credit reporting agencies (Equifax, Transunion, Experian) voluntarily removed some medical collections information starting in 2022 following attention to the problem from the CFPB, a 2024 CFPB study revealed that 15 million Americans still did not benefit from these industry-initiated efforts, likely due to their medical collections amounts exceeding the \$500 threshold set by the industry. Many of the left-behind individuals are residents of Southern states or lower-income people. For these populations, the negative impacts of leaving medical collections on credit reports continued, along with abusive collection tactics on disputed medical bills.

Medical debt can surface suddenly and unexpectedly, impacting even fully insured individuals who may struggle to pay off tens of thousands of dollars' worth of surprise medical debt for unplanned life events such as cancer or a heart attack. The inclusion of these debts on an individual's credit report can lead to an elevated cost of credit for borrowers, limit access to needed credit, or even limit an individual's ability to rent an apartment or get a job. These harmful downstream impacts are further compounded for Black, Latine, indigenous, and other people of color, who were already disadvantaged from opportunities to access capital and competitive loans due to years of systemic racism built into the credit reporting framework. Eliminating medical collections data from *all* credit reports, while not the complete solution to addressing these systemic injustices, remains a critical step towards remediating some of these negative impacts and will help curb abusive collection practices.

As technologies evolve and expand, the Bureau is working hard to protect consumers' sensitive financial data. Last September, the Bureau released an outline of possible Fair Credit Reporting Act (FCRA) proposals that would update the regulatory framework to align with modern day data broker practices and how consumer data is tracked and collected. Data brokers collect, aggregate, sell, and/or analyze consumer data, but while these activities threaten consumer privacy and pose risks of price gouging and price discrimination, there is currently no specific set of federal protections governing them. These proposals would update Regulation V, expanding the coverage of consumer protection measures to also encompass data brokers¹¹ so that certain consumer information cannot be sold for advertising or marketing purposes.

¹⁰ CFPB Proposes Rule to Close Bank Overdraft Loophole that Costs Americans Billions Each Year in Junk Fees (Jan. 17, 2024), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-close-bank-overdraft-loophole-that-costs-americans-billions-each-year-in-junk-fees/>.

¹¹ CFPB, Small Business Advisory Review Panel for Consumer Reporting Rulemaking, Outline of Proposals and Alternatives under Consideration ("SBREFA Outline") (Sept. 15, 2023), https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf.

The Bureau continues empowering consumers to take more control of their own financial data, helping consumers more easily move between financial service providers.

Proposed Rule 1033, the Personal Data Financial Rights Rule¹² is an open-banking proposal that will allow consumers to more easily switch financial service providers by ensuring they can easily access and move their personal financial data at no extra charge. Importantly, covered data¹³ would also need to be standardized, with a consistent presentation of bill-payer information, rewards, and other important consumer information, also making it easier for customers to comparison shop between financial service providers.

As congressionally mandated, the Bureau’s proposed Rule 1071 facilitates the enforcement of fair lending laws, generating much needed data on how lenders are serving businesses, especially those owned by people of color, women, and the LGBTQI+ community. This final rule issued last March¹⁴ would implement Section 1071 of the Dodd-Frank Act¹⁵ and require financial institutions to compile, maintain, and submit certain data on applications for credit for women-owned, minority-owned, and small businesses – a key step towards eliminating discrimination in small business lending.

The Bureau continues working to create a fairer and more stable financial services marketplace by issuing regulations over products and services that have had less regulatory oversight. Last November, the CFPB proposed a rule to supervise larger nonbank companies that offer services such as digital payment apps and wallets.¹⁶ Despite handling more than 5 billion in financial transactions annually, many of these Big Tech-owned financial institutions have left their customers particularly vulnerable to product abuses and to fraud. This rule simply makes sure that the same rules and protections that apply to large banks, credit unions, and other financial institutions also apply to digital payment apps and wallets.

In late May, the Bureau issued an interpretive rulemaking clarifying that buy now pay later (“BNPL”) service providers must comply with some traditional credit card protections under

¹² Required Rulemaking on Personal Financial Data Rights, 88 Fed. Reg. 74796 (Oct. 31, 2023), <https://www.federalregister.gov/documents/2023/10/31/2023-23576/required-rulemaking-on-personal-financial-data-rights>.

¹³

Id. at 74809. Covered data includes transaction information, account balances, payment initiation to or from a Reg E account, terms and conditions, upcoming bill information, and basic account verification information.

¹⁴

Small Business Lending Under the Equal Credit Opportunity Act (Regulation B), 88 Fed. Reg. 35150 (May 31, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-05-31/pdf/2023-07230.pdf>.

¹⁵ Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit to the Bureau certain data on applications for credit for women-owned, minority-owned, and small businesses.

¹⁶ Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications, 88 Fed. Reg. 80197 (Nov. 17, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-11-17/pdf/2023-24978.pdf>.

federal law, as these products are a form of credit card.¹⁷ BNPL customers must be allowed to dispute charges, obtain refunds, and receive regular statements. These protections are critical as BNPL loans have swiftly become the second most used form of credit payment by US consumers.¹⁸

While the industry has repeatedly attempted to delay and even stop the implementation of many of these consumer protection measures, the Bureau continues helping protect the public, holding institutions accountable when they break the law, and working to implement measures that would make the economy work more fairly for all people and households and promote the continued stability, competitiveness, and transparency of the financial marketplace. For the reasons above, Americans for Financial Reform urges members of the Committee to continue supporting the important and critical work of the Bureau

¹⁷ Truth in Lending (Regulation Z); Use of Digital User Accounts To Access Buy Now, Pay Later Loans, 89 Fed. Reg. 47068 (May 31, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-05-31/pdf/2024-11800.pdf>.

¹⁸ CNBC, "Buy now, pay later loans are second only to credit cards in popularity" (May 28, 2024), <https://www.cnbc.com/2024/05/28/buy-now-pay-later-loans-are-second-only-to-credit-cards-in-popularity.html>.