

Statement for the Record

On Behalf of

Americans for Financial Reform

to the

House Committee on Financial Services

“Making Community Banking Great Again”

February 5, 2025

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Americans for Financial Reform (AFR) appreciates the opportunity to provide a Statement for the Record for the House Financial Services Committee on “Make Community Banking Great Again.” 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, AFR continues to work towards a strong, stable, and ethical financial system. We are committed to eliminating the inequity and systemic racism in the financial system and fighting for a just and sustainable economy.

Congress created the Consumer Financial Protection Bureau (CFPB) in the wake of the devastating 2008 financial crisis. In the aftermath of this crisis, and for the last 14 years, the CFPB has served everyday people and their families by cracking down on junk fees and holding banks and other financial firms accountable when they engage in unfair, deceptive, abusive, and illegal misconduct. A strong and independent CFPB is critical to helping people navigate safely through their everyday financial life. Whenever someone makes a purchase with their credit card, accesses their bank account, applies for a loan or a mortgage, the CFPB is there to make sure that process is transparent and fair. CFPB helps make that process is fair and transparent for consumers, which also promotes confidence in the marketplace for financial services. Protecting people from fraudulent practices, financial rip-offs, and junk fees saves people money that helps families make ends meet.

The courts, including the Supreme Court, continue to support the CFPB’s strong and independent structure. This past May, the Supreme Court resoundingly sided with the CFPB and reaffirmed the constitutionality of the Bureau’s funding mechanism in *CFPB v. Community Financial Services Association*. More recently, two Texas courts in separate cases, once again sided with the CFPB, reiterating the legitimacy of the agency’s funding mechanism.¹

In the past 14 years, a strong and independent CFPB has:

- **Obtained over \$21 billion in relief for over 200 million people**² from restitution or cancelled debts as well as through its supervisory and enforcement powers. The Bureau’s rules, guidance and other effective oversight has kept many billions of dollars more in people’s pockets;
- **Returned \$363 million to servicemembers and veterans** through 39 enforcement actions, including 6 Military Lending Act violations (and, importantly, the CFPB is the *only* agency charged with enforcing the Military Lending Act);

¹ See *Texas v. Colony Ridge, Inc.*, No. CV H-24-0941, 2024 WL 4553111, at *4 (S.D. Tex. Oct. 11, 2024) and *Consumer Fin. Prot. Bureau v. Active Network, LLC*, No. 4:22-CV-00898, 2024 WL 4437639, at *1 (E.D. Tex. Oct. 7, 2024).

² Consumer Financial Protection Bureau (CFBP). [About the Bureau](#). Accessed December 6, 2024.

- **Returned \$80 million in illegally charged overdraft fees to servicemembers, veterans and Department of Defense civilian employees.**³ Last November, the CFPB ordered Navy Federal Credit Union, the nation’s largest credit union, to stop charging illegal overdraft fees and required Navy Federal to refund \$80 million back to its customers and pay a \$15 million penalty to the CFPB victims relief fund;
- **Helped eliminate medical debt collections from the credit reports of 22.8 million people** removing at least one medical debt collection from their credit reports;
- **Cracked down on junk fees, including finalizing rules to curb excessive overdraft fees that would save consumers \$5 billion annually;**⁴
- **Capped credit card late fees at \$8 to save people \$10 billion a year in junk fees, but tied up in court.** Last March, the CFPB finalized a rule to lower excessive credit card late fees, bringing typical credit card late fees from \$32 down to \$8.⁵ This rule would have saved consumers \$10 billion in late fees every year, but due to litigation initiated by Wall Street banks, the rule has been paused by an industry friendly 5th Circuit.⁶

These are just a few of the impactful ways the CFPB protects everyday people and their wallets, and why the CFPB’s consumer protection mission has broad and bipartisan support. Attempts to undo the CFPB’s final rules, particularly legislative attempts to undo the CFPB’s final overdraft fee rule and repeal or weaken the small business and small farm loan transparency provisions of Section 1071 of the Dodd-Frank Act would raise costs for people, push them out of mainstream banking, drive up junk fees, and exacerbate discriminatory lending practices. Ultimately, repealing or weakening these critical final rules would undermine the community banks and other banks that are abiding by the rules and offering value to families, small businesses, small farms, and their communities.

Repealing the CFPB’s final overdraft fee rule would cost people \$5 billion annually in junk fees and increase the number of people who are unbanked and underbanked. Today’s hearing references a draft Congressional Review Act resolution to rescind the CFPB’s final overdraft rule which would prioritize fee gouging by big banks over the consumers that would save \$5 billion every year from this commonsense rule. The CFPB overdraft fee rule⁷ closes a decades old regulatory loophole that has been misused by the biggest banks to reap billions in profits from the most vulnerable families. Decades ago, overdraft loans were exempted from the Truth in Lending Act (TILA) because banks only occasionally charged overdraft fees as a convenience to prevent paper checks from bouncing. As banks became more automated, they exploited the paper check era loophole to routinely extend high-cost credit without complying with TILA, turning an occasional courtesy into a lucrative back-end junk fee.

³ CFPB. [Press release]. “[CFPB orders Navy Federal Credit Union to pay more than \\$95 million for illegal surprise overdraft fees.](#)” November 7, 2024.

⁴ CFPB. [Press release]. “[CFPB closes overdraft loophole to save Americans billions in fees.](#)” December 12, 2024.

⁵ [Credit Card Penalty Fees \(Regulation Z\)](#). 89 Fed. Reg. 52. March 15, 2024.

⁶ Americans for Financial Reform Education Fund. [Wall Street Ripoff Counter](#). Accessed December 6, 2024. Click [here](#) to see how much people have lost from the credit card late fee rule’s delay.

⁷ CFPB. [Overdraft Lending: Very Large Financial Institutions](#). 89 Fed. Reg. 249. December 30, 2024 at 106768.

The overdraft fee rule will help everyone, but especially families that are struggling with high prices and making ends meet and tackle the top reason people become unbanked and underbanked. Households that pay overdraft fees lose an average of \$225 to these fees every year. These high fees are a major reason people — particularly lower income households, people of color, and people with disabilities — avoid banks or lose their bank accounts and become unbanked. The proportion of families without a bank account are far higher for Black, Latine, Indigenous, and with family members with a disability than for white families (the unbanked rates are 10.6 percent of Black, and 9.5 percent of Latine households, 12.2 percent of Indigenous, and 11.2 percent of working age households with a family member with a disability, are unbanked, compared to only 1.9 percent of white households).⁸

The rule will also help reduce exploitive practices and increase fairness and transparency: Most debit card overdrafts are for less than \$26 — far below the typical \$35 fee — and are repaid within 3 days, resulting in the equivalent of a 16,000 percent annual percentage rate (APR) loan, often for transactions consumers would rather have denied.⁹ Banks have also charged overdraft fees when the account had sufficient funds, manipulated the order of transactions, and engaged in other abuses that increase the number of overdraft infractions and fees. The rule will eliminate the incentive for these exploitive practices while allowing banks to offer overdraft credit profitably in a more transparent and fair manner.

Finally, many large financial institutions have already adopted similar protections, and the overdraft fee rule simply brings parity to all large financial institutions and exempts banks with less than \$10 billion in assets. Citibank and Ally already have eliminated overdraft fees and mid-sized and smaller institutions are completely exempt from the rule. Other big banks will be able to charge a \$5, a higher fee tailored to cover their costs, or, if they wish to make a profit, to offer overdraft lines of credit with transparent pricing, repayment period, and other requirements that apply to credit cards and other loans. Instead of cutting off access to mainstream banking services, this rule simply makes banking fairer and more transparent for consumers as well as all very large financial institutions.

Repealing or weakening Section 1071 of the Dodd-Frank Act will hurt small businesses and farms, which are important engines for economic growth and household wealth building.

The discussion drafts of the “1071 Repeal to Protect Small Business Lending Act,” the “Small Lenders Exempt from New Data Excessive Reporting (LENDER) Act,” and the “Bank Loan Privacy Act” would repeal or weaken Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Small businesses and farms owned by women and people of color have faced historic, considerable, and persistent inequitable access to financing and credit related to structural racial wealth inequality, patterns of disparate treatment and outcomes securing loans, and discrimination. Section 1071 amended the landmark civil rights statute Equal Credit Opportunity Act to collect data on small business and farm lending to “facilitate enforcement of fair lending laws and enable communities and governmental entities, and creditors to identify business and community development needs”¹⁰ The Equal Credit Opportunity Act outlaws lending

⁸ Federal Deposit Insurance Corporation. “[2023 FDIC National Survey of Unbanked and Underbanked Households.](#)” November 2023 at 24.

⁹ CFPB. [Fact sheet]. “[The CFPB’s proposed rule to curb excessive fees on overdraft loans by very large banks and close a decades old loophole.](#)” 2024.

¹⁰ Dodd-Frank Wall Street Reform and Consumer Protection Act. [Pub. L. 111-203](#). July 21, 2010 at §1071; 15 USC §1691c-2(a).

discrimination on the basis of race, color, religion, national origin, sex, marital status, or age.¹¹ The CFPB's final 1071 rule makes it possible to assess and enforce compliance with fair lending and anti-discrimination statutes, to identify community development small business and farm capital needs, and to improve transparency in small business and farm credit and lending markets.

Small businesses and farms are important engines for economic growth and household wealth building, but historic inequitable access to small business credit has impeded the ability of women and people of color to establish and grow entrepreneurial small businesses and farms. Studies continue to confirm that Black, Latine, and Asian small business owners had lower access to capital, are charged higher interest rates, receive lower loan amounts, and have higher loan rejection rates than comparably creditworthy white small business owners.¹² Small farmers, especially Black, Latine, Indigenous, Asian, and women farmers, have faced long-standing disparate treatment and discrimination in accessing farm credit on equitable terms.¹³ Small farmers face substantial and similar barriers to credit on fair and equitable terms as small businesses, especially during economic crises.¹⁴

This continued inequitable access to credit and financing makes it more difficult for businesses and farms owned by people of color to sustain, reinvest, and expand their businesses. Collecting data helps make it easier to see otherwise missed patterns of discrimination in the context of small business and farm lending – discrimination which ultimately disadvantages certain small businesses and farms, which results in a less competitive marketplace that hurts all small business owners and farmers and the communities they serve. This transparency in small business and farm credit markets not only promotes governmental fair lending enforcement but provides vital tools for community groups, local governments, and small business and farm advocates to assess the availability of credit necessary to promote community development, especially in lower-income areas and communities of color. The three draft bills fail to address the critical purposes of rooting out lending discrimination and providing needed transparency in small business and farm credit markets and would further delay a law that has waited 15 years to be fully implemented.

For these reasons, we urge this committee to carefully oppose the legislative proposals that would repeal or weaken Section 1071 as well as the resolution of disapproval of the CFPB's overdraft fee rule. These proposals will hurt everyday people, including consumers and their families, as well as small business owners and farmers and the communities they serve. They will make community banking less helpful and more predatory and create a financial services marketplace that is less competitive and less fair for banks and financial firms that offer value and follow the rules. Instead of helping strengthen consumer protections and putting money into people's pockets, these bills

¹¹ 15 USC §1691(a).

¹² de Zeeuw, Mels G. and Victor E. da Motta. Federal Reserve Bank of San Francisco. "[Minority-owned enterprises and access to capital from Community Development Financial Institutions](#)" Community Development Innovation Review. May 19, 2021 at 6 to 7.

¹³ de Sam Lazaro. Fred an Simeon Lancaster. "[Historically denied 'pivotal' loans, Black farmers still struggle to get support.](#)" *PBS Newshour*. December 7, 2021; Rosenberg, Nathan. "[How USDA distorted data to conceal decades of discrimination against Black farmers.](#)" *The Counter*. June 26, 2019; Matin, Michel. "[USDA awards Native Americans millions in discrimination suit.](#)" *NPR*. October 21, 2010; LaFraniere, Sharon. "[U.S. opens spigot after farmers claim discrimination.](#)" *New York Times*. April 25, 2013; U.S. Department of Agriculture. [Press release]. "[USDA notice to women and Hispanic farmers and ranchers: Compensation for claims of discrimination.](#)" July 7, 2011; Robinson, Jessica. "[Women, Hispanic farmers say discrimination continues in settlement.](#)" *NPR*. November 9, 2012.

¹⁴ Farm Aid, Food & Water Watch, National Family Farm Coalition, Rural Advancement Foundation Intl.-USA. "[Don't Bank on It: Farmers Face Significant Barriers to Credit During Economic Downturn.](#)" March 2011.

only pad bank profits, push more people out of mainstream banking services, impose \$5 billion in excessive junk fees, and will unfairly disadvantage small businesses and farms that would otherwise serve the communities.